

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)

JUAN FRANCO,)

Complainant,)

and)

MICROMATIC SPRING &
STAMPING CO., INC.,)

Respondent.)

CHARGE NO(S): 2007CF1492
EEOC NO(S): 21BA70409
ALS NO(S): 08-0042

NOTICE

You are hereby notified that the Illinois Human Rights Commission has not received timely exceptions to the Recommended Order and Decision in the above named case. Accordingly, pursuant to Section 8A-103(A) and/or 8B-103(A) of the Illinois Human Rights Act and Section 5300.910 of the Commission's Procedural Rules, that Recommended Order and Decision has now become the Order and Decision of the Commission.

STATE OF ILLINOIS)
HUMAN RIGHTS COMMISSION)

Entered this 9th day of April 2010

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

4. I entered an Order on April 16, 2008 warning the parties that the failure to appear at a scheduled status hearing or to comply with an order of the Commission may result in dismissal, default, and other sanctions as justice requires.
5. On June 5, 2008, a status hearing took place. Respondent appeared, but Complainant failed to appear.
6. On July 3, 2008, I entered an Order permitting both parties to serve initial discovery requests by August 4, 2008.
7. On July 18, 2008, Respondent served Complainant with written discovery requests.
8. Complainant failed to respond to Respondent's written discovery requests within 28 days of service and the requests remained unanswered as of the next status hearing on October 9, 2008.
9. On October 9, 2008, I entered an Order requiring Complainant to respond to Respondent's written discovery requests by November 10, 2008.
10. Complainant failed to respond to Respondent's written discovery requests by November 10, 2008.
11. On December 4, 2008, I entered an Order granting Complainant's Motion to Extend Discovery and Response and ordered Complainant to respond to Respondent's discovery requests by December 18, 2008.
12. My December 4, 2008 Order stated that, absent good cause, there would be no further extensions.
13. Complainant failed to respond to Respondent's written discovery requests by December 18, 2008.
14. On December 29, 2009, Complainant's counsel e-mailed Respondent's counsel partial responses to Respondent's discovery requests. The responses were not verified.
15. On February 18, 2009, I entered an Order granting Complainant's counsel's Motion to Withdraw.

16. On March 18, 2009, I entered an Order granting Complainant time to find an attorney.
17. My March 18, 2009 Order directed Complainant's new counsel, if any, to file an appearance by May 7, 2009.
18. On May 7, 2009, a status hearing took place. Complainant failed to appear.
19. My May 7, 2009 Order granted Respondent leave to file a Motion to Dismiss.
20. My May 7, 2009 Order set a briefing schedule for the Motion and again warned Complainant that failure to appear for a status hearing or comply with orders may result in dismissal.
21. On May 7, 2009, Respondent mailed a copy of my May 7, 2009 Order to Complainant at his last known address and filed a certificate of service with the Commission.
22. On May 7, 2009, Respondent filed its Motion with the Commission, and also filed a certificate of service showing that it served both the Complainant and the Department with the Motion.
23. To date, Complainant has failed to file a response to the Respondent's Motion to Dismiss.

CONCLUSIONS OF LAW

1. A complaint may be dismissed when a party fails to appear at a scheduled hearing without requesting a continuance reasonably in advance or unreasonably refuses to comply with a Commission Order or otherwise engages in conduct which unreasonably delays or protracts proceedings.
2. Complainant has failed to: (a) comply with discovery rules; (b) comply with Commission Orders; and (c) file a response to this Motion. The appropriate sanction is dismissal of the Complaint, and the underlying charge, with prejudice.

DISCUSSION

Under Commission procedural rules, an Administrative Law Judge may recommend to the Commission that a complaint be dismissed where a party fails to appear at a scheduled

status hearing, unreasonably refuses to comply with a Commission Order or otherwise engages in conduct which unreasonably delays or protracts proceedings. **See 56 Ill. Admin. Code §5300.750(e).**

Complainant has failed to timely respond to Respondent's written discovery requests. When Complainant did respond, many responses were only partial and were not verified. Specifically, pursuant to Commission's procedural rules, Complainant was required to respond to Respondent's written requests in August 2008. He failed to do so. Subsequently, Complainant was ordered to respond by November 10, 2008. Again, he failed to do so. Complainant was then ordered to respond to Respondent's written discovery requests by December 18, 2009. He failed to comply with that Order.

Complainant also failed to appear at the last scheduled status hearing. Complainant was warned on three separate occasions that failure to appear at scheduled status hearings and/or comply with Orders may result in dismissal and other sanctions. Complainant has ignored these express warnings.

I find that Complainant has engaged in unreasonable delay, and has ignored my Orders. As such, it is appropriate to dismiss his Complaint, with prejudice. **Bulmer v. Teng & Associates, Inc., IHRC 05-419, May 15, 2006. See also Williams v. SBC Ameritech, IHRC, 05-455, Dec. 11, 2006.**

In addition, Complainant has not filed any response to the Motion. The Commission has held that a dispositive motion should be granted where it appears on its face to be valid and the Complainant has failed to file a response. **Jones and Burlington Northern Railroad, 25 Ill. HRC Rep 101 (1986).**

RECOMMENDATION

I recommend the Commission dismiss the Complaint, and the underlying charge, with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
REVA S. BAUCH
DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: JULY 7, 2009