

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)

WELLINGTON PHILIPS ,)

Complainant,)

and)

TALBOTT HOTEL,)

Respondent.)

CHARGE NO(S): 2007CF2927

EEOC NO(S): 21BA71564

ALS NO(S): 09-0207

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 7th day of January 2011

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)	
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WELLINGTON PHILIPS,)	
)	
Complainant,)	Charge No. 2007CF2927
)	EEOC No. 21BA71564
and)	ALS No. 09-0207
)	
TALBOTT HOTEL,)	Judge Reva S. Bauch,
)	Presiding
Respondent.)	

RECOMMENDED ORDER AND DECISION

This matter is before the Commission on Respondent's Motion to Dismiss for Want of Prosecution. Complainant had an opportunity to file a response but failed to do so. Accordingly, this matter is now ready for disposition.

The Illinois Department of Human Rights ("Department") is an additional statutory agency that has issued state actions in this matter. Therefore, the Department is an additional party of record.

FINDINGS OF FACT

The following facts were derived from the record file in this matter.

1. A complaint was filed with the Commission on April 27, 2009.
2. On October 23, 2009, Complainant's attorney filed a Motion for Withdrawal and properly served it on Complainant who had requested the withdrawal.
3. In connection with the Motion for Withdrawal, Complainant was notified and advised of the status of this matter and further, was mailed the pleadings and my last order.

4. On November 3, 2009, Chief Administrative Law Judge Michael Evans granted Complainant's attorney's Motion for Withdrawal.
5. In the November 3, 2009 order, a status hearing was set for January 20, 2010, requiring Complainant to appear in person or by counsel.
6. A copy of the November 3, 2009, order was served on Complainant (via overnight mail, signature required) on December 21, 2009.
7. Complainant received the November 3, 2009 order on December 22, 2009.
8. Complainant failed to appear at the January 20, 2010 status hearing.
9. Another status hearing was set for February 4, 2010.
10. Complainant was served with the January 20, 2010 order on January 21, 2010, via certified mail.
11. Complainant failed to appear for the February 4, 2010 status hearing, and failed to contact the Commission to either explain the reason for his failure to appear or request a continuance.
12. As per my August 6, 2009 order, Complainant had until August 27, 2009 to file written responses to Respondent's discovery requests.
13. To date, Complainant has failed to serve written responses to written discovery as required by the November 3, 2009 order.
14. Respondent filed this Motion to Dismiss on February 4, 2010.
15. A briefing schedule was set on February 4, 2010 requiring Complainant to file a response on or before February 18, 2010.
16. On February 4, 2010, Respondent's counsel filed a proof of service with the Commission indicating that she had served a copy of the February 4, 2010 order on Complainant via First Class Mail and Overnight Delivery.
17. To date, Complainant has not filed a response to the Respondent's Motion to Dismiss for Want of Prosecution.

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. Since Complainant has failed to appear at several scheduled status hearings and has failed to comply with several Commission Orders, 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).**

A fundamental principle governing practice before the Commission is that complainants must diligently pursue their cases once they are docketed with the Commission. Complainant has failed to appear for several scheduled status hearings. He has also failed to comply with several Commission Orders, including orders on responding to Respondent's discovery requests. Complainant has unreasonably delayed and protracted these proceedings. As such, it is appropriate to dismiss his Complaint, with prejudice. **Aceves and Everlast Concrete, Inc. and Artech Concrete, Inc., IHRC, ALS No. 12187, May 18, 2005.**

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: February 23, 2010