

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)

MARY K. WATSON,)

Complainant,)

and)

CANADIAN NATIONAL/ILLINOIS CENTRAL)
RAILROAD,)

Respondent.)

CHARGE NO(S): 2000SF0204
EEOC NO(S): 21BA00136
ALS NO(S): S11551

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 23rd day of August 2010

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

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CENTRAL RAILROAD,)	
)	
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RECOMMENDED ORDER AND DECISION

This matter is ready for a Recommended Order and Decision pursuant to the Illinois Human Rights Act (775 ILCS 5/1-101 et seq.). On February 19, 2003, an Order was entered which directed Complainant to file a report indicating how she wished to proceed with her Human Rights Act claim. Complainant, however, has not responded to this Order or any other Orders seeking similar information.

Findings of Fact

Based on the record in this matter, I make the following findings of fact:

1. On June 20, 2001, the Department of Human Rights filed a Complaint on behalf of Complainant alleging that Respondent denied her a promotion on account of her sex and in retaliation for having filed a charge of discrimination.
2. On June 29, 2001, Complainant filed a motion to change venue from Chicago to Springfield.
3. On August 30, 2001, Administrative Law Judge William H. Hall granted the motion for change of venue and transferred the matter to the Chief Administrative Law Judge for further assignment.

4. On August 12, 2002, an Order was entered which directed the parties to file status reports by August 28, 2002, indicating what discovery had taken place and whether the case could be set for a public hearing.

5. On August 27, 2002, counsel for Respondent filed a motion to substitute counsel, as well as a status report indicating that: (1) a similar matter involving the same parties and related allegations had been filed in Federal District Court; and (2) counsel for Complainant had indicated to him that he was going to file either a motion to stay or dismiss the Human Rights Act case while the federal matter was pending in federal court. Complainant did not file a status report.

6. On September 17, 2002, an Order was entered which granted the motion to substitute counsel and directed Complainant to file a status report by October 4, 2002, indicating how she wished to proceed in her Human Rights Act claim. Complainant did not comply with this Order.

7. On November 6, 2002, an Order was entered which required Complainant to file a status report by November 22, 2002, regarding how she wished to proceed with her Human Rights Act claim. Complainant did not comply with this Order.

8. On February 19, 2003, an Order was entered which gave Complainant one last opportunity to file a report indicating how she wanted to proceed on her Human Rights Acts claim. The Order further cautioned Complainant that if she failed to file a status report by the March 7, 2003 deadline, she risked entry of an Order recommending that the case be dismissed for want of prosecution.

9. Complainant has not filed a status report as of the date of this Order.

Conclusions of Law

1. A complaint may be dismissed when a party engages in conduct that unreasonably delays or protracts proceedings. See 56 Ill. Admin. Code, Ch. XI, §5300.750(e).

2. The Complainant has unreasonably delayed proceedings by failing to file a status report as to her intention on proceeding with her case.

3. The appropriate sanction for Complainant's failure to advance her case is dismissal of the Complaint and the underlying Charge of Discrimination.

Determination

The Commission should dismiss the Complaint and the underlying Charge of Discrimination due to Complainant's failure to file a status report indicating her intention on proceeding with her case.

Discussion

Under the Commission's procedural rules, an administrative law judge may recommend to the Commission that a complaint be dismissed where a complainant engages in conduct that unreasonably delays or protracts proceedings. (See 56 Ill. Admin. Code, Ch. XI, §5300.750(e).) On review, the Commission has upheld the use of such discretion to dismiss complaints in circumstances which are analogous to the case at bar. See, for example, Ramirez and Wesco Spring Company, 40 Ill. HRC Rep. 266 (1988), and Hartford and Mitsubishi Motor Manufacturing of America, ___ Ill. HRC Rep. ___ (1998SF0357, August 16, 2000).

Here, the circumstances also indicate that Complainant's inaction has served to unreasonably delay these proceedings. Specifically, Complainant failed to comply with the Orders of September 17, 2002, November 6, 2002, and February 19, 2003, which required that Complainant provide a status report indicating how she wanted to proceed with her Human Rights Act case given the representation that she had filed a similar case in federal court. Moreover, there is no explanation in the record as to why Complainant failed to comply with these directives. In short, Complainant has not taken any step to indicate a present intention to either proceed with this matter or stay this matter pending resolution of the federal case. These failures have resulted in an

unreasonable delay and render it difficult for the Commission to take any action with regard to this case except to dismiss it. See, for example, **Foster and Old Republic General Services, Inc.**, ___ Ill. HRC Rep. ___ (1990CA2290, November 8, 1993).

Recommendation

Accordingly, I recommend that the Complaint and the underlying Charge of Discrimination of Mary K. Watson be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL R. ROBINSON
Administrative Law Judge
Administrative Law Section

ENTERED THE 28th DAY OF MAY, 2003