

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)	
)	
VIVIAN MOORE,)	CHARGE NO: 2001CF2284
)	EEOC: 21BA11910
Complainant,)	ALS NO: 11762
)	
AVLON INDUSTRIES, INC.,)	
)	
Respondent.)	

RECOMMENDED ORDER AND DECISION

On April 19, 2002, the Illinois Department of Human Rights filed a complaint on behalf of Complainant, Vivian Moore. That complaint alleged that Respondent, Avlon Industries, Inc., eliminated her position due to her race; black.

During the course of discovery in this matter, Respondent filed a number of motions to compel, along with a number of motions to dismiss for Want of Prosecution due to Complainant's failure to comply with discovery requests and her failure to appear at scheduled hearings. Ultimately, Respondent filed a Renewed Motion to Dismiss for Want of Prosecution on April 18, 2003, with notice to the Complainant and the Illinois Department of Human Rights setting the matter for April 24, 2003. On April 24, 2003, the Complainant again failed to appear. Complainant did not contact the Commission to explain her failure to appear. The matter is now ready for decision.

FINDINGS OF FACT

The following findings of fact are based upon the case file for this matter.

1. On June 12, 2002, the ALJ in this matter entered a Scheduling Order setting the dates for Discovery.

2. On August 15, 2002, Respondent filed a Motion to Compel, which was set for September 11, 2002. On September 11, 2002, the motion was entered and continued to September 26, 2002, so that the parties could resolve any discovery issues.

3. On September 26, 2002, Respondent appeared before the Commission, while Complainant failed to appear or otherwise notify the Commission of her absence. An order was entered whereby Respondent's Motion to Dismiss was entered and continued to October 24, 2002. The order further indicated that if Complainant failed to appear, Respondent would be granted leave to file a Motion to Dismiss for Want of Prosecution. Respondent served a copy of said order to Complainant.

4. On October 24, 2002, both parties appeared and Respondent's Motion to Compel was heard and granted in part. The matter was set for status on January 30, 2003.

5. On December 16, 2002, Respondent filed a Renewed Motion to Compel and for Leave to Take Deposition of Complainant with notice sent to Complainant that the motion would be heard on January 30, 2003.

6. On January 30, 2003, Respondent appeared, while Complainant failed to appear or otherwise notify the Commission of her absence. An order was entered continuing Respondent's motion and granting Respondent leave to file any appropriate motion to be set for March 12, 2003. A copy of said order was sent to Complainant by Respondent.

7. On March 12, 2003, Respondent and Complainant appeared. Upon consent of both parties, Respondent was granted leave to take the deposition of Complainant. Respondent's Motion to Dismiss for Want of Prosecution was entered and continued to April 24, 2003.

8. On April 18, 2003, Respondent filed a Renewed Motion to Dismiss for Want of Prosecution with notice to the Complainant and the Department that the matter was to be heard on April 24, 2003.

9. On April 24, 2003, Respondent appeared, while Complainant again failed to appear or otherwise notify the Commission of her absence. Respondent's motion to dismiss was heard. Respondent indicated that Complainant had failed to appear for the scheduled deposition without notification to him; thereby, causing him to expend the amount of \$75.00 for the court reporter's appearance fee. An order was entered granting Respondent's Motion to Dismiss for Want of Prosecution and indicating that a Recommended Order and Decision would follow.

10. A copy of the April 24, 2003 order was sent to Complainant by Respondent. Complainant has failed to respond to said order.

CONCLUSION OF LAW

1. Complainant's apparent refusal to respond to Respondent's numerous discovery requests, including attending a scheduled deposition without notification to the Respondent, as well as her failure to appear on Respondent's Motion to Dismiss for Want of Prosecution or to explain that refusal have unreasonably delayed the proceedings in this matter.

2. In light of Complainant's apparent abandonment of her claim, it is appropriate to dismiss this matter with prejudice.

DISCUSSION

On June 12, 2002, the ALJ in this matter entered a Scheduling Order setting the dates for Discovery. On August 15, 2002, Respondent filed a Motion to Compel, which

was set for September 11, 2002. On September 11, 2002, the motion was entered and continued to September 26, 2002, so that the parties could resolve any discovery issues. On September 26, 2002, Respondent appeared before the Commission, while Complainant failed to appear or otherwise notify the Commission of her absence. An order was entered whereby Respondent's Motion to Dismiss was entered and continued to October 24, 2002. The order further indicated that if Complainant failed to appear, Respondent would be granted leave to file a Motion to Dismiss for Want of Prosecution. Respondent served a copy of said order to Complainant.

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Complainant's apparent inaction has unreasonably delayed the proceedings in this matter, and it appears that Complainant simply has abandoned her claim. As a result, it is appropriate to dismiss this case with prejudice. See Leonard and Solid Matter, Inc., ___ Ill. HRC Rep. ___, (1989CN3091, August 25, 1992).

RECOMMENDATION

Based upon the foregoing, it appears that Complainant has abandoned her claim. Accordingly, it is recommended that this case be dismissed in its entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
NELSON E. PEREZ
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: May 9, 2003