



STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	)	
	)	
<b>LISA A. ELLIS,</b>	)	
	)	
Complainant,	)	
	)	
and	)	CHARGE NO: 2002SF0079
	)	EEOC NO: 21BA12087
<b>SCHUSTER MEDIA GROUP, INC. AND</b>	)	ALS NO: S-11926
<b>LEE SCHUSTER,</b>	)	
	)	
Respondents.	)	

**RECOMMENDED ORDER AND DECISION**

This matter comes to me on review of the instant file. On October 28, 2005, an Order was entered which required Complainant to file by November 14, 2005 a motion to dismiss her case with prejudice based on a prior oral representation that she no longer wished to prosecute this case. Complainant, however, has not complied with this Order or with the Order entered on August 3, 2005 requiring her to file a similar motion. Accordingly, this matter is ripe for a decision.

**Findings of Fact**

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

1. On August 18, 2001, Complainant filed a Charge of Discrimination, alleging that she was the victim of sexual harassment and unlawful retaliation by Respondents.
2. On November 6, 2002, the Department of Human Rights filed the instant Complaint on behalf of Complainant, alleging that Complainant was the victim of sexual harassment, and that Respondents harassed and terminated her in retaliation for opposing unlawful discrimination.

3. On January 26, 2003, an Order was entered which stayed the instant proceedings pending the bankruptcy proceedings filed by both Respondents.

4. On March 5, 2005, an Order was entered that acknowledged that both Respondents had been discharged in bankruptcy, but noted that Complainant still wished to proceed with the non-monetary aspects of her claim against Respondent Lee Schuster.

5. On May 19, 2005, an Order was entered which set this matter for a public hearing on August 10, 2005.

6. On August 3, 2005, an Order was entered which reflected that Complainant had telephoned the Commission indicating that she wished to dismiss her case. The Order canceled the public hearing and directed Complainant to file a written motion to dismiss her case with prejudice on or before September 2, 2005. Complainant did not comply with this Order.

7. On October 28, 2005, an Order was entered which directed Complainant to file a written motion to dismiss her case with prejudice on or before November 14, 2005. The Order also indicated that Complainant's failure to comply with the Order risked the entry of an order recommending that her case be dismissed for want of prosecution.

8. The Commission has not received a motion to dismiss this case with prejudice 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. Complainant has unreasonably delayed proceedings by announcing an intention to dismiss the case with prejudice but failing to file a written motion to dismiss the case.

3. The appropriate sanction for Complainant's failure to either participate in a public hearing or file a motion to dismiss her case is dismissal with prejudice of the Complaint and underlying Charge of Discrimination.

### **Determination**

The Complaint and underlying Charge of Discrimination should be dismissed with prejudice for Complainant's failure to participate in the scheduled public hearing and her subsequent failure to comply with two Commission Orders directing her to file a motion to dismiss her case with prejudice.

### **Discussion**

Under the Commission's procedural rules, an administrative law judge may recommend to the Commission that a Complaint be dismissed where a party 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, **Des Roches and University of Chicago**, \_\_\_ Ill. HRC Rep. \_\_\_ (1991CN2778, February 3, 1999).) Here, the record shows that Complainant informed the Commission that she wished to dismiss her case just days before the scheduled public hearing and has failed to file the requisite written motion to dismiss, although she was given two opportunities to do so. Complainant's behavior renders it difficult for the Commission to take any action with regard to this case except to dismiss it. See, for example, **Paredes and Loretto Hospital**, \_\_\_ Ill. HRC Rep. \_\_\_ (1909CF1769, June 15, 1995).

**Recommendation**

For all of the above reasons, I recommend that the Complaint and the underlying Charge of Discrimination be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY: \_\_\_\_\_

MICHAEL R. ROBINSON  
Administrative Law Judge  
Administrative Law Section

ENTERED THE 9TH DAY OF FEBRUARY, 2006