▶	This Recommended Order and Decision became the Order and Decision of the Illinois Human Rights Commission on 05/15/06

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	)	
	)	
	)	
MARIA E. BULMER	)	
	)	**CHARGE NO.: 2002CA1489**
Complainant,	)	**EEOC NO.: 21BA20805**
	)	**ALS NO.: 05-419**
	)	
and	)	
	)	
TENG & ASSOCIATES, INC.	)	
	)	
Respondent.	)	

RECOMMENDED ORDER AND DECISION

This matter is before the Commission on Respondent's Motion to Dismiss for Want of Prosecution filed on January 30, 2006. Pursuant to an order entered on January 18, 2005, Complainant's response was due on February 15, 2006. No response was filed. The motion is now ripe for a decision.

FINDINGS OF FACT

The following facts were derived from the record in this case.

1. On January 3, 2002, Complainant filed a Charge of Discrimination with the Illinois Department of Human Rights (the "Department") against Respondent, her former employer, alleging that she was wrongfully terminated on the basis of age (then 60).
2. On September 21, 2005, the Department filed a complaint, on behalf of Complainant, alleging that Respondent discriminated against her on the basis of age (then 60) in violation of the Illinois Human Rights Act.
3. On October 28, 2005, Respondent filed its verified answer and affirmative defenses to the complaint.

4. On November 16, 2005, this case was scheduled for an initial status hearing. Respondent appeared. An attorney attended this hearing, ostensibly on Complainant's behalf. The attorney stated that he was present as a courtesy to Complainant, but had not been retained yet. The attorney did not file an appearance. He stated that he would file an appearance after finalizing a retainer agreement with Complainant. The attorney stated that he was not fully aware of the facts and allegations of the case. I instructed the attorney to enter an appearance on Complainant's behalf as soon as possible.

5. On November 16, 2005, an order was entered setting an opening date for initiation of discovery on December 2, 2005, and scheduling the next status hearing for December 21, 2005. Respondent and the attorney who was ostensibly present on Complainant's behalf were given copies of the November 16, 2005 order.

6. On December 6, 2005, Respondent filed and served Complainant with its First Set of Interrogatories and Request for Production of Documents. Respondent filed a certificate of service with the Commission certifying that it served Complainant with its discovery requests.

7. On December 21, 2005, Respondent appeared for the scheduled status hearing. Neither Complainant nor an attorney for Complainant appeared. No appearances for Complaint had been filed. Respondent stated that discovery had been served on Complainant with a courtesy copy to the attorney who attended the November 16, 2005 initial status hearing.

8. On December 21, 2005, an order was entered ordering Complainant to appear at the next scheduled status hearing date, which was set for January 18, 2006. Respondent filed a certificate of service with the Commission on

December 21, 2005, certifying that a copy of the December 21, 2005 order was mailed to Complainant.

9. On January 18, 2006, Respondent appeared at the scheduled status hearing. Neither Complainant nor an attorney on Complainant's behalf appeared at the hearing. Respondent reported that Complainant had failed to respond to Respondent's written discovery.

10. On January 18, 2006, an order was entered granting Respondent leave to file a motion to dismiss the complaint, with prejudice, for want of prosecution on or before January 30, 2006. The order set a briefing schedule, and another status hearing for March 22, 2006.

11. On January 19, 2006, Respondent filed a certificate of service with the Commission certifying that the January 18, 2006 order was mailed to Complainant.

12. On January 30, 2006, Respondent filed its Motion to Dismiss for Want of Prosecution. Respondent also filed a certification of service that the motion was served on Complainant.

13. Complainant failed to file a response to Respondent's Motion to Dismiss for Want of Prosecution.

14. On March 22, 2006, Respondent appeared for a scheduled status hearing. Neither Complainant nor an attorney on Complainant's behalf appeared at the hearing.

15. To date (other than on November 16, 2005, as set forth above) neither Complainant, nor anyone on her behalf, has appeared in this case.

CONCLUSIONS OF LAW

1. Complainant's failure to appear for scheduled status hearings, as well as her failure to comply with written orders of the Administrative Law Judge, has unreasonably delayed the proceedings in this case.
2. In light of Complainant's apparent abandonment of her claim, this case should be dismissed, with prejudice.

DISCUSSION

Section 5300.750(e) of the Illinois Administrative Code, 56 Ill. Admin. Code Part 5300.750(e), permits dismissal of a complaint, with prejudice, as a sanction for unreasonable conduct. Unreasonable conduct, as defined by this Section, includes a party's failure to appear at a scheduled hearing without requesting a continuance reasonably in advance, unreasonably refusing to comply with any order entered, or otherwise engaging in conduct that unreasonably delays or protracts proceedings. *Id .*

Complainant has taken absolutely no action to prosecute this case since at least November 16, 2005. Without explanation, and without a request for continuance, Complainant missed the last three (3) scheduled status hearings. Complainant also has ignored orders entered in this case, including the December 21, 2005 order requiring Complainant to appear at the January 18, 2006 status hearing. In addition, Complainant has failed to respond to Respondent's written discovery requests. Finally, Respondent has failed to file a response to Respondent's Motion to Dismiss for Want of Prosecution. In similar situations, the Commission has imposed the sanction of dismissal of the complaint, with prejudice. *See* **Rodney E. Lee and DSC Logistics,** ___ Ill. HRC Rep. ___ (2003CF2073, Jan. 26, 2005); **Gomez and QA Products, Inc.**, ___ Ill. HRC Rep. ___ (2004C2119, Mar. 7, 2005).

RECOMMENDATION

Based on the foregoing, it appears that Complainant has abandoned her claim. Accordingly, I recommend that the complaint be dismissed, with prejudice.

HUMAN RIGHTS COMMISSION

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REVA S. BAUCH
DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW DIVISON

ENTERED: March 22, 2006