



STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)	
)	
BRANDY BUSH,)	
)	
Complainant,)	
)	
and)	CHARGE NO: 1999SF0397
)	EEOC NO: 21B990894
UNITED CEREBRAL PALSY OF)	ALS NO: S-11136
LAND OF LINCOLN,)	
)	
Respondent.)	

RECOMMENDED ORDER AND DECISION

This matter comes to me on a motion by Respondent, United Cerebral Palsy of Land of Lincoln, to dismiss this case as a sanction due to Complainant's failure to respond to certain outstanding discovery requests. Complainant has not filed a response to this motion.

Contentions of the Parties

In its motion, Respondent submits that dismissal of this motion is warranted since Complainant has failed to comply with prior orders from the Commission directing her to serve responses to outstanding discovery requests. Respondent also maintains that Complainant's failure to comply with these orders has unreasonably delayed these proceedings.

Findings of Fact

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

1. On January 20, 1999, Complainant filed a Charge of Discrimination alleging that she was the victim of sexual harassment and retaliation in the workplace.
2. On December 23, 1999, the Department of Human Rights filed this Complaint alleging that Complainant was the victim of unlawful retaliation.

3. On January 21, 2000, an Order was entered which stayed this matter pending disposition of Complainant's Request for Review of the sexual harassment portion of her Charge of Discrimination. The Order directed both parties to file status reports regarding the Request for Review.

4. From January 21, 2000 to May 1, 2001, Respondent filed five reports regarding the status of Complainant's Request for Review in response to various orders directing both parties to do so. Complainant failed to file any status reports during this time.

5. On May 1, 2001, an Order was entered which noted that the initial dismissal of Complainant's sexual harassment claim has been upheld and lifted the stay. The order also established a discovery schedule.

6. On May 3, 2001, Respondent served Complainant with Interrogatories and Requests to Produce.

7. When Complainant failed to serve Respondent with responses to the discovery requests, Respondent filed a motion to compel. Complainant failed to respond to the motion to compel.

8. On July 19, 2001, an Order was entered which granted the motion to compel and directed Complainant to respond to all outstanding discovery response by August 9, 2001.

9. On July 26, 2001, an Order was entered which noted that the Commission had received a notice from the postal service indicating that Complainant had moved to a new address. Complainant was then re-served with a copy of the July 19, 2001 Order at the new address and was given until August 16, 2001 to respond to all outstanding discovery requests.

10. Complainant has not served Respondent with any responses to outstanding discovery requests and has not made any contact with Respondent's counsel to make arrangements for tendering discovery responses.

11. On August 22, 2001, Respondent filed a motion to dismiss this case as a sanction for Complainant's failure to tender any responses to outstanding discovery requests and her failure to prosecute her claim. Complainant has not filed a response to this motion.

Conclusions of Law

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

2. The Complainant has unreasonably delayed proceedings by failing to tender responses to outstanding discovery requests or otherwise respond to orders of the Commission.

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 tender timely discovery responses or to otherwise advance 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 **Hariford and Mitsubishi Motor Manufacturing of America**, ___ Ill. HRC Rep. ___ (1998SF0357, August 16, 2000).

Here, the circumstances also indicate that Complainant's inaction served to unreasonably delay these proceedings. Specifically, Complainant failed to comply with the initial deadline for serving discovery responses and has apparently ignored the Commission orders of July 19 and 26, 2001 directing her to serve responses. Moreover, there is no explanation in the record as to why Complainant failed to comply with these directives, and I would note that Complainant failed to file any status reports as required during the time period when this case was stayed. In short, Complainant has not taken any step to indicate a present intention to proceed with this matter.

Additionally, it is significant to note that Complainant has failed to respond to this motion for sanctions or, for that matter any prior motion to compel compliance with outstanding discovery requests. These failures have resulted in 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 this Complaint and the underlying Charge of Discrimination of Brandy Bush be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

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

ENTERED THE 11th DAY OF APRIL, 2002.

