



**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)	
)	
EVALYN R. HAMILTON,)	CHARGE NO: 2000CF2704
)	EEOC: 21BA02164
Complainant,)	ALS NO: 11532
)	
MONTGOMERY WARD, LLC,)	
)	
Respondent.)	

RECOMMENDED ORDER AND DECISION

On May 15, 2001, the Illinois Department of Human Rights filed a complaint on behalf of Complainant, Evalyn R. Hamilton, with the Illinois Human Rights Commission. That complaint alleged that Respondent, Montgomery Ward, LLC, failed to promote Complainant based upon racial discrimination and retaliation.

This matter was set for a Public Hearing for the first time on July 10, 2001, at 9:30 a.m. Respondent filed a Motion to Dismiss or, in the Alternative, Stay the Proceedings and Strike the Public Hearing Date, on June 18, 2001, which was to be heard on June 28, 2001. Complainant nor Complainant's counsel appeared for the June 28, 2001 hearing date. An order was entered directing the Complainant to file a Response to Respondent's motion and for Respondent to file a Reply. The matter was set to be ruled by mail. The July 10, 2001 hearing date was stricken. On July 25, 2001 and August 2, 2001, Complainant's attorney moved to withdraw as counsel for Complainant. On August 8, 2001, the motion was heard by ALJ David Brent and an order was entered granting Complainant's counsel leave to withdraw contingent upon counsel notifying Complainant and informing her that she must file an appearance in the matter within 30

days and must appear for the September 27, 2001 status hearing. On September 27, 2001, Complainant failed to appear and failed to file an appearance. Respondent's motion to stay the matter was granted. On October 24, 2001, Respondent filed a Motion to Dismiss based upon Complainant's failure to comply with the August 8, 2001 order directing her to file an appearance and appear before the Commission. The motion was heard on December 12, 2001. Complainant again failed to appear and failed to file an appearance in this matter. At that time, Respondent's Motion to Dismiss was granted. 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. This matter was set for Public Hearing on July 10, 2001.
2. On June 18, 2001, Respondent filed with the Commission a Motion to Dismiss or, in the Alternative, Stay the Proceedings and Strike the Public Hearing Date, which was set for June 28, 2001.
3. On June 28, 2001, Complainant and her counsel failed to appear for the motion. An order was entered giving the Complainant until July 13, 2001 to file a Response to Respondent's motion and giving Respondent until July 27, 2001 to file a Reply. The matter was to be ruled upon by mail thereafter. The hearing date of July 10, 2001 was stricken.
4. On July 13, 2001, Complainant's counsel filed a Motion to Withdraw as Counsel to be heard on July 25, 2001. On July 25, 2001, Respondent's motion was stricken with leave to refile. On August 2, 2001, Complainant's counsel again filed a Motion to Withdraw as Counsel, which was to be heard on August 8, 2001.

5. On August 8, 2001, Complainant's counsel's motion was granted contingent upon him serving Complainant with notice and informing her that she had 30 days to file an appearance and was required to appear for the September 27, 2001 status hearing.

6. On August 15, 2001, Complainant's counsel filed Proof of Service with the Commission that he sent notice to Complainant on the same date that she was to file an appearance and appear before the Commission.

7. On September 27, 2001, Complainant failed to appear and failed to file an appearance. Respondent's motion to stay was granted.

8. On October 1, 2001, Respondent's counsel filed with the Commission Proof of Service that he sent to Complainant a copy of the September 27, 2001 order, on October 1, 2001.

9. On October 24, 2001, Respondent filed a Motion to Dismiss based upon Complainant's failure to file her appearance and her failure to appear before the Commission. The matter was set to be heard on December 12, 2001.

10. On December 12, 2001, Complainant again failed to appear or file an appearance in this matter. Respondent's Motion to Dismiss was granted.

CONCLUSION OF LAW

1. Complainant's apparent refusal to abide by the Commission's August 8, 2001 Order to appear before the Commission and to file an appearance in this matter or to explain why she has not filed an appearance or appeared before this Commission has 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

Complainant failed to abide by the Commission's August 8, 2001 order to file an appearance in this matter and to appear before it on September 27, 2001. Complainant again failed to appear before the Commission on December 12, 2001. At this point, Complainant has taken no action to prosecute this case. She has ignored orders directing her to appear in front of this Commission. She has also failed to file an appearance in this matter.

Her 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: June 4, 2002