



**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)
)
JEFFREY HARTMAN,)
Complainant,)
) Charge No: 2005CF2432
) EEOC No: 21BA51274
) ALS No: 05-473
)
and)
)
SOUTH HOLLAND MITSUBISHI,)
Respondents)

RECOMMENDED ORDER AND DECISION

This matter is before me on the Respondent’s Motion to Dismiss the Complaint filed May 18, 2006. The record indicates that the motion has been served upon all Parties and the Illinois Department of Human Rights (Department). This matter is ready for a decision.

FINDINGS OF FACT

The following findings were made from the record:

1. Complainant filed a Charge of Discrimination with the Department on March 7, 2005. The Department filed a Complaint, on behalf of the Complainant, with the Illinois Human Rights Commission (Commission) on November 18, 2005, alleging that Respondent discriminated against him on the basis of race in violation of the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.*
2. On December 1, 2005, the Commission served notice on all Parties by certified mail that a public hearing on the matter was scheduled for January 10, 2006.
3. On January 10, 2006, Respondent appeared through counsel; Complainant did not appear. An Order was entered ordering Respondent to file a verified answer to the Complaint by February 3, 2006 and setting a status for February 14, 2006.

The Order indicated that, if Complainant failed to appear for the February 14, 2006 status hearing, Respondent may file a motion to dismiss.

4. On February 14, 2006, both Parties failed to appear. I issued an Order setting a further status for March 14, 2006 and warning both Parties that failure to appear may result in dismissal or default of this matter.
5. On March 14, 2006, Complainant appeared *pro se*; Respondent appeared through counsel. An Order was entered setting a further status on April 11, 2006 in order to allow Complainant time to secure counsel.
6. On April 11, 2006, Respondent appeared through counsel; Complainant did not appear. An Order was entered granting Respondent leave to file a motion to dismiss by May 5, 2006. Complainant was ordered to file a written response to the motion no later than May 19, 2006. A hearing on the motion was set for May 24, 2006.
7. Respondent filed a motion to dismiss on May 18, 2006 and noticed it for hearing on May 24, 2006.
8. On May 24, 2006, Respondent appeared through counsel for a hearing on the motion. Complainant did not appear. I granted Respondent's motion to dismiss.

CONCLUSION OF LAW

Complainant's conduct has resulted in unreasonable delay of this matter, justifying dismissal of this case.

DETERMINATION

Complainant failed to appear for the April 11, 2006 scheduled status hearing, failed to file a response to the motion to dismiss and has further failed to appear for the May 24, 2006 hearing on the motion. Complainant's conduct justifies dismissal of this Complaint.

DISCUSSION

Respondent contends that this matter should be dismissed because Complainant has failed to show any interest in litigating this matter. Specifically, Respondent argues that Complainant did not appear for the initial status conference on January 10, 2006 and failed to appear for the February 14, 2006, March 14, 2006 and April 11, 2006 status hearings.

Complainant's position is not known because he has failed to file a response to the motion to dismiss, although given time in which to do so.

Section 5/8A-102(l)(6) of the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.*, authorizes a recommended order of dismissal, with prejudice, or of default as a sanction for a party's failure to prosecute his case, appear at a hearing, or otherwise comply with this Act, the rules of the Commission, or a previous Order of the Administrative Law Judge. Similarly, Section 5300.750(e) of the Procedural Rules of the Illinois Human Rights Commission authorizes a recommendation for dismissal with prejudice where a party fails to appear at a scheduled hearing without requesting a continuance reasonably in advance, or unreasonably refuses to comply with any Order entered, or otherwise engages in conduct which unreasonably delays or protracts the proceedings.

Although Respondent states that Complainant failed to appear for the March 14, 2006 hearing, the record indicates that Complainant was present for that particular hearing, at which time I granted a continuance to allow an opportunity for him to search for and secure legal representation. The record does support, however, that Complainant did not appear for the January 10, 2006, February 14, 2006 and April 11, 2006 hearings. Additionally, Complainant failed to file a response to Respondent's motion to dismiss and also failed to appear May 24, 2006 for the scheduled hearing on the motion.

Although I have reviewed the record in drafting this decision, it is well established that the Commission will not search the record to find reasons to deny a motion where the party opposing the motion has failed to file a response and where a motion appears valid on its face. *Jones & Burlington Northern Railroad*, 25 Ill. HRC Rep. 101 (1986). The record supports that Complainant's conduct has resulted in unreasonable delay, justifying dismissal of this matter.

RECOMMENDATION

Accordingly, I recommend that this Complaint be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
SABRINA M. PATCH
Administrative Law Judge
Administrative Law Section

ENTERED: June 2, 2006