



This Recommended Order and Decision became the Order and Decision of the Illinois Human Rights Commission on 3/23/04.

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF)
)
Stephanie Insidioso,)
 Complainant)
and)
)
Crown Distributors, Inc. (Gregg E.)
Szilagyi, Receiver),)
 Respondent)

CHARGE NO.: 1999 CF2231
EEOC NO.: 21B 991675
ALS NO.: 11394

RECOMMENDED ORDER AND DECISION

This matter comes before the Commission on Respondent’s Receiver’s Motion to Dismiss for Want of Prosecution (“Motion”), filed on August 8, 2002. Complainant did not file a response to the Motion. No reply was required from Respondent. There is no further activity in this case reflected in the record and it is now ready for disposition.

Statement of the Case

The complaint in this case was filed on Complainant’s behalf by the Illinois Department of Human Rights on October 2, 2000. Respondent filed its verified answer on December 19, 2000 and a scheduling order was entered on February 21, 2001. At that time, both parties were represented by counsel. Although the discovery process began in due course, Complainant never responded to Respondent’s requests for discovery. On August 21, 2001, Respondent filed a Motion to Compel Complainant to respond to the outstanding discovery requests. Through counsel, Complainant subsequently agreed to provide all discovery by no later than September 19, 2001. However, no responses were tendered and, on November 1, 2001, Complainant’s counsel filed a motion to withdraw which was granted on November 15, 2001.

Although she was given until January 18, 2002 to obtain new counsel, Complainant did not file an appearance of any kind by that date. Neither party appeared on any of the next three status dates, January 22, 2002, February 26, 2002 or April 11, 2002. Then, at the status hearing held on May 28, 2002, an attorney appeared for Respondent to present documents from a federal consumer protection action before Judge Charles Kocoras of the Northern District of Illinois that included the appointment of a receiver to represent the interests of the Respondent. By order entered on May 29, 2002, Respondent's receiver was given leave to either seek a stay of this case or to file a motion to dismiss based on Complainant's failure to prosecute; if the latter option was chosen, Respondent was required to make a good faith effort to determine the current whereabouts of Complainant for service of the motion to dismiss.

Respondent complied with the order of May 29, 2002, including use of a private investigator to confirm the address for Complainant, prior to filing the Motion on August 8, 2002, with service on the Department of Human Rights and on Complainant at her newly discovered current address. As noted above, no response has been received from Complainant or from the Department.

Findings of Fact

1. Respondent, represented by counsel, was properly served with notice of this matter and timely filed its verified answer.
2. Complainant failed to respond to the Motion and she has not otherwise participated in the prosecution of this case following the withdrawal of her counsel. She has not filed any notice of change of address and a private investigator likewise determined that she remains at the same address found throughout the record.

Conclusions of Law

1. Complainant is an “aggrieved party” and Respondent is an “employer” as those terms are defined by the Illinois Human Rights Act, 775 ILCS 5/1-103(B) and 5/2-101(B) respectively.

2. The Commission has jurisdiction over the parties and the subject matter of this action.

3. The Commission is authorized to dismiss complaints with prejudice due to “the failure of a party to prosecute his or her case” Illinois Human Rights Act, 775 ILCS 5/8A-102(I)(6).

4. Because Complainant has failed to take any action with regard to this case, there has been a failure “to prosecute his or her case” on the part of Complainant, thereby requiring dismissal of the complaint with prejudice.

Discussion

It is a fundamental principle governing practice before this Commission that it is the singular responsibility of complainants to diligently pursue the disposition of the cases once they are docketed with the Commission. In this case, Complainant has not participated in the prosecution of it in any meaningful fashion for a significant period of time. Because of the passage of time with no effective action on the part of Complainant, it is recommended that this case now be dismissed because of the failure of Complainant to prosecute her case.

Recommendation

It is recommended that Respondent's Motion be granted and that this case be dismissed with prejudice pursuant to the authority granted to the Commission in the Illinois Human Rights Act at 775 ILCS 5/8A-102(D)(6).

HUMAN RIGHTS COMMISSION

ENTERED:

November 7, 2002

BY: _____

DAVID J. BRENT
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

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