

3. On February 1, 2000, an Order was entered which stayed the instant action pending disposition of a similar federal sexual harassment lawsuit involving the same parties and the same allegations.

4. On September 28, 2000, an Order was entered which reflected the fact that the Commission had received a copy of a purported settlement of the instant action with no indication as to whether the parties wished to have the Commission approve the settlement or to have the matter dismissed with prejudice pursuant to a motion to dismiss. The Order directed the parties to file either a proposed settlement agreement or a motion to dismiss on or before October 28, 2000.

5. On February 5, 2001, an Order was entered which noted that neither party had complied with the Order of September 28, 2000. Accordingly, the parties were given until February 20, 2001 in which to comply with the Order of September 28, 2000. The Order also warned the parties that the failure to comply with the Order could result in a subsequent Order recommending that the matter be dismissed with prejudice for want of prosecution.

6. On February 20, 2001, an Order was entered which extended the due date set forth in the February 5, 2001 Order to March 7, 2001 because the Commission had received notification from the post office that counsel for Respondent had moved to a different address.

7. The Commission has not received either a proposed settlement agreement for consideration by the Commission or a motion to dismiss the case with prejudice as of the date of this Order.

Conclusions of Law

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

2. The parties have unreasonably delayed proceedings by failing to comply with two Commission Orders directing them to file either a proposed settlement agreement to be considered by the Commission or a motion to dismiss this case with prejudice.

3. The appropriate sanction for the parties' failure to advance this case is dismissal of the Complaint and underlying Charge of Discrimination with prejudice.

Determination

The Complaint and underlying Charge of Discrimination should be dismissed with prejudice for the parties' failure to comply with Commission Orders directing them either to take the proper steps to effect their settlement or resolve the instant Complaint through a motion to dismiss.

Discussion

Under the Commission's procedural rules, an administrative law judge may recommend to the Commission that a Complaint be dismissed where a party engages in conduct which 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, **Des Roches and University of Chicago**, ___ Ill. HRC Rep. ___ (1991CN2778, February 3, 1999).) Here, the record shows that the parties have settled this matter but have failed to take the proper steps to dispose of this case, although the parties have been given two opportunities to do so. Their behavior renders it difficult for the Commission to take any action with regard to this case except to dismiss it. See, for example, **Paredes and Lorretto Hospital**, ___ Ill. HRC Rep. ___ (1989CF1769, June 15, 1995).

Recommendation

For all of the above reasons, I recommend that the Complaint and the underlying Charge of Discrimination be dismissed with prejudice.

ILLINOIS HUMAN RIGHTS COMMISSION

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

ENTERED THE 27TH DAY OF AUGUST, 2001.