



**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)	
)	
MARK MORRIS,)	CHARGE NO: 2000CF1512
)	EEOC: 21BA00872
Complainant,)	ALS NO: 11435
)	
McMASTER-CARR SUPPLY)	
COMPANY,)	
)	
Respondent.)	

RECOMMENDED ORDER AND DECISION

On December 21, 2000, the Illinois Department of Human Rights filed a complaint on behalf of Complainant, Mark Morris. That complaint alleged that Respondent, McMaster-Carr Supply Company, failed to hire Complainant because of his race; black. On November 14, 2001, Complainant moved to have the matter stayed at the Commission because he had filed a lawsuit in federal court under the case number of 01 cv 6349. The motion to stay was granted. On August 14, 2002, Complainant's counsel moved to withdraw as counsel for Complainant. Complainant failed to appear for the motion, which was granted. Complainant was given until September 26, 2002 to obtain new counsel and the matter was set for status on September 26, 2002, at 2:00 p.m. A proof of service was filed with the Commission on August 14, 2002 showing that Complainant's counsel served Complainant with the August 14, 2002 order. Complainant failed to appear for the September 26, 2002 status, at which time Respondent moved to dismiss the matter for want of prosecution. Respondent was granted leave to file said motion and a hearing date was set for October 9, 2002.

Due to Respondent's failure to serve Complainant with a copy of the September 26, 2002 order, Respondent's motion was entered and continued to October 24, 2002, at 2:00 p.m. Respondent subsequently served notice of the October 24, 2002 hearing date to Complainant and the Department. On October 24, 2002, Respondent's motion to dismiss for want of prosecution was heard. Complainant did not appear for the hearing on the motion. Respondent filed the minute order from Complainant's federal case (01 cv 6349), showing that an order of dismissal for want of prosecution was entered against Complainant on October 10, 2002. The order further showed that attorney fees were granted to Respondent. Respondent's motion to dismiss for want of prosecution was granted with the indication that a Recommended Order and Decision would follow. The October 24, 2002 order was served upon Complainant with proof of service filed with the Commission on October 28, 2002. Complainant has yet to respond to the dismissal order.

For unknown reasons, Complainant failed to appear for the status dates set in this matter and failed to appear for the hearing on Respondent's motion to dismiss for want of prosecution. Despite being served with the motion and with copies of orders requiring attendance, Complainant never failed to appear and failed to respond to the motion to dismiss for want of prosecution. 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. On December 21, 2000, the Illinois Department of Human Rights filed a complaint on behalf of Complainant, Mark Morris.
2. On November 14, 2001, Complainant moved to have the matter stayed at

the Commission because he had filed a lawsuit in federal court under the case number of 01 cv 6349. The motion to stay was granted.

3. On August 14, 2002, Complainant's counsel moved to withdraw as counsel for Complainant. Complainant failed to appear for the motion, which was granted. Complainant was given until September 26, 2002 to obtain new counsel and the matter was set for status on September 26, 2002, at 2:00 p.m. A proof of service was filed with the Commission on August 14, 2002 showing that Complainant's counsel served Complainant with the August 14, 2002 order.

4. Complainant failed to appear for the September 26, 2002 status, at which time Respondent moved to dismiss the matter for want of prosecution. Respondent was granted leave to file said motion and a hearing date was set for October 9, 2002.

5. Due to Respondent's failure to serve Complainant with a copy of the September 26, 2002 order, Respondent's motion was entered and continued to October 24, 2002, at 2:00 p.m. Respondent subsequently served notice of the October 24, 2002 hearing date to Complainant and the Department.

6. On October 24, 2002, Respondent's motion to dismiss for want of prosecution was heard. Complainant did not appear for the hearing on the motion.

7. Respondent's motion to dismiss for want of prosecution was granted with the indication that a Recommended Order and Decision would follow. The October 24, 2002 order was served upon Complainant with proof of service filed with the Commission on October 28, 2002.

8. Complainant's federal case (01 cv 6349), was dismissed for want of prosecution October 10, 2002.

CONCLUSION OF LAW

1. Complainant's apparent failure to attend numerous status dates set by this Commission and his refusal to respond to Respondent's motion to dismiss for want of prosecution and his failure to explain his actions have unreasonably delayed the proceedings in this matter.

2. In light of Complainant's apparent abandonment of his claim, it is appropriate to dismiss this matter with prejudice.

DISCUSSION

On November 14, 2001, Complainant, Mark Morris, moved to have this matter stayed pending the lawsuit he filed in federal court under case number 01 cv 6349. On August 14, 2002, Complainant failed to appear on Complainant's counsel motion to withdraw. Complainant was given until September 26, 2002 to obtain new counsel and to appear for status. Complainant failed to obtain new counsel or to appear on the given status date, even though he was served with notice. Respondent moved to dismiss the matter for want of prosecution and was granted leave to do so and a hearing date was set for October 9, 2002. Respondent failed to serve Complainant with notice, therefore the motion was entered and continued to October 24, 2002. Complainant and the Department were served with notice of the new hearing date. On October 24, 2002, Complainant failed to appear for the hearing on Respondent's motion. During the hearing on the motion, Respondent produced a document that showed Complainant's federal case (01 cv 6349) was dismissed for want of prosecution on October 10, 2002.

Complainant failed to respond to Respondent's motion to dismiss for want of prosecution and failed to appear for the scheduled status hearing. At this point,

Complainant has taken no action to prosecute this case. He has ignored orders directing him to appear in front of this Commission. His inaction has unreasonably delayed the proceedings in this matter, and it appears that Complainant simply has abandoned his 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 his 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: December 10, 2002