



This Recommended Order and Decision became the Order and Decision of the Illinois Human Rights Commission on 8/11/05

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

In the Matter of THOMAS PERKINS,)	
)	
Complainant,)	Charge No.: 2001 CA 0784;
)	EEOC: 21 BA 10058
And)	ALS No.: 11817
)	
ILLINOIS DEPARTMENT OF CENTRAL)	
MANAGEMENT SERVICES,)	
Respondent)	

RECOMMENDED ORDER AND DECISION

This matter comes pursuant to a notice by Complainant’s attorney, dated March 14, 2005, placing in the record a suggestion of the death of Complainant, Thomas Perkins. Pursuant to that notice, I set the matter for a status conference on June 15, 2005. Notice of that status was issued to counsel for both parties, and to Mr. Aaron Perkins, the individual identified by Complainant’s attorney as Complainant’s next of kin.

On June 15, Complainant’s attorney appeared before me, and Respondent’s attorney participated by telephone. Although duly notified of the proceedings, Mr. Perkins did not appear. Complainant’s attorney advised this tribunal that he had notified the Complainant’s next of kin that, in light of Complainant’s demise, he would be unwilling to continue to prosecute the case. Respondent’s attorney made an oral motion for Dismissal. Upon review, I find the matter is now ready for decision.

FINDINGS OF FACT

1. This matter arises out of a Complaint brought by Thomas Perkins against the Illinois Department of Central Management Services. The Complainant alleged discrimination on the bases of age and race. Respondent has denied the allegations.
2. On October 8, 2004, Mr. Perkins was deceased.
3. No motion has been filed to substitute a proper party Complainant.

4. Complainant's next of kin has been advised of the pendency of the case, and of his right to move to substitute a proper party Complainant.
5. More than ninety days has passed since Complainant's death has been suggested of record in this cause.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties in this matter.
2. The Commission is authorized to dismiss complaints with prejudice due to the failure of a proper party Complainant to file a motion to substitute within ninety days after death is suggested of record. 56 Ill. Adm. Code Sec. 5300.660(b)
3. Complainant bears the burden of proof in an action under the Act.
4. Because no motion to substitute has been filed in this cause, the matter may be dismissed as to the deceased party.

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 cases once they are docketed with the Commission. In this case, Complainant is deceased and therefore unable to pursue the matter. Complainant's next of kin has been notified of the pendency of the case, the suggestion of death and the status hearing set for June 15, but neither appeared, nor filed, nor caused to be filed, a motion to substitute. No other proper party has moved to substitute. It is recommended that this case now be dismissed pursuant to 56 Ill. Adm. Code Sec. 5300.660(b).

RECOMMENDATION

It is recommended that this case be dismissed with prejudice pursuant to the authority granted to the Commission pursuant to 56 Ill. Adm. Code Sec. 5300.660(b)

HUMAN RIGHTS COMMISSION

ENTERED: 06/16/05

BY: _____
MARY KENNEDY
CHIEF ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION