



STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)		
)		
RACHAEL RICE,)		
)		
Complainant,)		
)		
and)	CHARGE NO:	2000SF0405
)	EEOC NO:	21BA00976
BLIMPIES OF CHAMPAIGN, INC.)	ALS NO:	S-11400
)		
Respondent.)		

RECOMMENDED ORDER AND DECISION

This matter comes to me on a petition filed by Complainant requesting an award of \$6,156.25 in attorney fees, as well as \$358.50 in costs associated with the prosecution of this matter. On May 9, 2002, a Recommended Liability Decision was entered in favor of Complainant on Complainant's claim of sexual harassment. The Recommended Liability Decision gave Respondent twenty-one days in which to file a response to the fee petition. Respondent, however, has not filed a response to the fee petition although the time for doing so has expired.

Findings of Fact

Based upon the record in this matter, I make the following findings of fact:

1. At all times pertinent to this case, Complainant has been represented by Michael J. Merlie.
2. Mr. Merlie has been engaged in the general practice of law since November of 1974. His practice includes areas of real estate, probate, bankruptcy, personal injury, family and other related fields of law.

3. At all times pertinent to this case, Mr. Merlie charged his clients an hourly rate of \$125.00. The reasonable hourly rate for Mr. Merlie in this action is \$125.00 per hour.

4. Mr. Merlie expended a total of 49.25 hours in prosecuting this case on behalf of Complainant. The reasonable number of hours spent by Mr. Merlie in this case is 49.25. This translates into an award of attorney fees of \$6,156.25.

5. The reasonable amount of costs in this action is \$358.50.

Conclusions of Law

1. All previous conclusions of law in the Recommended Liability Decision are incorporated by reference.

2. A prevailing complainant may recover reasonable attorney fees and costs to maintain her action.

Discussion

In **Clark and The Champaign National Bank**, 4 Ill. HRC Rep. 193 (1981) the Commission identified various guidelines to adjudicate requests for attorney fee awards. Under the **Clark** standard, the burden of proof is the same burden that is applied to anyone seeking a claim for a money judgment. Specifically, an attorney requesting fees on behalf of his client must provide evidence of the prevailing rate for the type of work for which he seeks an award. This can be done in a number of ways, including, among others, the submission of affidavits reciting the precise fees that attorneys with similar qualifications have received from paying clients in comparable cases, or affidavits showing evidence of the actual billing practice during the relevant time period. Indeed, as the Commission in **Clark** observed, the actual rate that a complainant's attorney can command in the market place is highly relevant proof of prevailing community standards.

Here, Mr. Merlie has indicated that he actually charged his clients \$125.00 per hour for services rendered in his general practice law firm, and that such an hourly fee is

consistent with what other attorneys charge their clients in the Danville, Illinois area. In view of the lack of objections by Respondent, I find that Mr. Merlie's \$125.00 per hour rate is reasonable under this record. Moreover, my review of the daily logs with respect to time expended on this case by Mr. Merlie (i.e., 49.25 hours) indicates that Mr. Merlie spent a reasonable amount of time in prosecuting this case on behalf of Complainant. Additionally, Complainant's request for costs in the amount of \$358.50 for obtaining transcripts of this action is also reasonable.

Finally, I note that the Commission has received from Respondent a document entitled "Exceptions to the Recommended Liability Decision" that was filed on June 6, 2002. However, there are no provisions in the Commission's rules that permit parties to file exceptions to recommended liability decisions, and paragraph seven of the recommendations set forth in the Recommended Liability Decision in this case specifically stayed all recommendations in the Order pending issuance of this Recommended Order and Decision. Accordingly, Respondent's "Exceptions to the Recommended Liability Decision" will be stricken. If Respondent wants to file exceptions to issues contained in either the Recommended Liability Decision or the Recommended Order and Decision, it needs to file new exceptions within the thirty-day time frame set forth in section 5300.920 of the Commission's Procedural Rules (56 Ill. Admin. Code, Ch. XI, §5300.920). Any response by Complainant to the new exceptions shall be filed in accordance with section 5300.930 of the Commission's Procedural Rules. (56 Ill. Admin. Code, Ch. XI, §5300.930).

Recommendation

In view of the above, I recommend that the Commission enter an Order which:

1. Strikes Respondent's "Exceptions to the Recommended Liability Decision".

2. Sustains the Order of May 9, 2002, which found that Complainant had established a cognizable case of sexual harassment and awarded Complainant \$13,199.35 in back wages, as well as \$10,000 in emotional damages and other non-monetary relief.

3. Requires Respondent to pay Complainant's attorney fees totaling \$6,156.25 and costs of \$358.50.

HUMAN RIGHTS COMMISSION

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

ENTERED THE 20TH DAY OF MARCH, 2003