



**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

**IN THE MATTER OF:** )  
 )  
SAMUELS RODGERS, )  
 )  
 **Complainant,** )  
 )  
**and** )  
 )  
METRA R.R., )  
 )  
 **Respondent.** )

**ChargeNo:1999 CF 0115  
EEOC No:21 B 982814  
ALS No: 10986**

**RECOMMENDED ORDER AND DECISION**

This matter is before me on Respondent’s Motion to Dismiss the Complaint. Respondent contends that the Complainant was recently deceased and the Complainant’s attorney has taken no action to indicate he will be proceeding on this case.

**Findings of Fact**

1. Complainant filed a Charge of Discrimination against the Respondent with the Illinois Department of Human Rights (Department) on July 10, 1998, amended on April 1, 1999.
2. On August 25, 1999, the Department filed a Complaint on behalf of the Complainant alleging Complainant to have been aggrieved by practices of handicap discrimination in violation of the Illinois Human Rights Act (Act), 775 ILCS 5/1-101 et. seq.
3. Respondent filed a motion to dismiss on October 12, 1999; Complainant filed a response on November 30, 1999 and Respondent filed a reply on December 17, 1999.
4. Respondent’s motion to dismiss was denied on April 11, 2001.
5. Respondent filed an answer to the Complaint on April 23, 2001.
6. During the April 30, 2001 status, Complainant advised this tribunal of the Complainant’s recent death. The matter was continued until July 30, 2001.
7. On July 30, 2001, Respondent appeared; Complainant did not appear; an order was entered setting a status for August 13, 2001.
8. On August 13, 2001, Respondent advised that the Complainant was deceased and requested dismissal of the matter. An order was entered ordering the Complainant to file a substitution of Party in accordance with Commission Procedural Rule 5300.660(b) or a motion for voluntary dismissal by August 27, 2001.
9. The August 13, 2001 order warned that failure to do so would result in a Recommended Order and Decision to dismiss the Complaint with Prejudice.
10. To date, no substitution of party, motion for voluntary dismissal or other pleadings have been filed by Complainant.

### **Discussion**

Complainant's counsel appeared and advised this tribunal on April 30, 2001 of the Complainant's recent death; however, Complainant has failed to file a motion to substitute the Complainant within 90 days after the death was suggested or within the additional time as provided in my August 13, 2001 order. Further, Complainant did not appear at the last two status hearings on July 30, 2001 and August 13, 2001 and has failed to request an extension or do anything to indicate a desire to proceed with this matter.

### **Conclusions of Law**

Section 5300.660(b) of the Commission Procedural Rules provides that the Complaint may be dismissed as to the deceased Party if a motion to substitute is not filed within 90 days after the death is suggested of record.

### **Determination**

Complainant's failure to file a motion to substitute the deceased party justifies dismissal of this matter.

### **Recommendation**

I recommend that this Complaint and the underlying Charge be dismissed with prejudice.

**HUMAN RIGHTS COMMISSION**

By: \_\_\_\_\_  
**SABRINA M. PATCH**  
**Administrative Law Judge**  
**Administrative Law Section**

**ENTERED: August 28, 2001**