



This Recommended Order and Decision became the Order and Decision of the Illinois Human Rights Commission on 4/23/01.

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF)
)
Gloria Saltow,)
Complainant)
and)
Warren Lowry, M.D.,)
Respondent)

CHARGE NO.: 1998 CN 2548
EEOC NO.:
ALS NO.: 10836

RECOMMENDED ORDER AND DECISION

This matter comes before the Commission on Respondent’s Motion to Dismiss With Prejudice and For Other Relief (“Motion I”), filed on October 11, 2000. Complainant, who is proceeding *pro se*, filed a Motion Requesting Another Trial Date (“Motion II”) on November 15, 2000; Motion II was taken as her response to Motion I. Respondent’s reply, which also served as his response to Motion II, was filed on November 22, 2000. There is no further activity in this case reflected in the record. It is now ready for disposition.

Statement of the Case

The complaint in this case was filed by the Department of Human Rights on May 25, 1999 and Respondent’s answer was filed on June 30, 1999 (verification was filed on August 16, 1999). Complainant’s counsel moved to withdraw on October 27, 1999 and she has participated in this case *pro se* from the time that motion was granted on November 22, 1999. On June 21, 2000, this matter was set for public hearing to begin on October 3, 2000 at 9:30 a.m. at the Commission’s office in Chicago. On October 3, 2000, Respondent appeared at the offices of the Commission with his attorney and several witnesses who were to be called to testify during the public hearing. Complainant did not appear and did not participate in this case again until she filed Motion II.

Findings of Fact

1. Respondent, represented by counsel, was properly served with notice of this matter and filed its verified answer.
2. Complainant was given due written notice of the impending public hearing by service of the Commission's order of June 21, 2000 which was mailed to her address of record (and which was still her address according to the return address on the envelope in which she submitted Motion II on November 13, 2000).
3. The reasons advanced by Complainant in Motion II are not credible and are insufficient to excuse her failure to appear for the public hearing on October 3, 2000.
4. Both Motions I and II, and Respondent's reply, were duly served on the Department of Human Rights in accord with the procedural rules.

Conclusions of Law

1. Complainant is an "aggrieved party" and Respondent is an "employer" as those terms are defined by the Illinois Human Rights Act, 775 ILCS 5/1-103(B) and 5/2-101(B) respectively.
2. The Commission has jurisdiction over the parties and the subject matter of this action.
3. If a party fails to appear at a scheduled public hearing, a recommendation that the complaint be dismissed with prejudice may be submitted by the assigned administrative law judge. 56 Ill. Admin. Code 5300.750(e).

Discussion

Complainant did not appear for the scheduled public hearing on October 3, 2000, while Respondent did appear, accompanied by counsel and several witnesses scheduled to testify at the hearing. In response to Respondent's Motion I, Complainant alleges that she was first told of the

hearing date “over the phone in April or May” (2000) but that she did not hear the date due to a poor telephone connection. The date of the public hearing was set by order on June 21, 2000. Although Complainant did not participate in that telephone status hearing, she was sent a copy of the written order by mail at her then- and current address. By her own statement, she did not attempt to contact the Commission by telephone again until after October 3, 2000. Her assertions about the hearing date are not credible. She either allowed months to pass after she was aware that a date was going to be set without following through or she did receive the notice and chose to ignore it. In either circumstance, she is not entitled to the setting of a new date. Motion I demonstrates good cause why this case should be dismissed with prejudice and that will be the recommendation to the Commission.

In that Respondent would have incurred virtually the same expense whether this case had gone to hearing or not, I find that the dismissal of the complaint with prejudice is a sufficient sanction against Complainant, and it is recommended that no monetary sanction be entered against her. Miller-Johnson v. Peoria Area Arts & Sciences Council, Ill. H.R.C. Rep. (1995SF0230, October 4, 1999).

Recommendation

It is recommended that Respondent’s Motion I be granted and this case be dismissed with prejudice and it is recommended that Respondent’s request for attorney’s fees be denied. It is further recommended that Complainant’s Motion II be denied with prejudice.

HUMAN RIGHTS COMMISSION

ENTERED:

March 1, 2001

BY: _____
DAVID J. BRENT
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION