This Recommended Order and Decision became the Order and Decision of the Illinois Human Rights Commission on 05-15-06

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	)	
	)	
GIA SROKA,	)	
	)	
Complainant,	)	
	)	**Charge No.: 2004CN1024**
and	)	**EEOC No.: N/A**
	)	**ALS No.: 05-037**
MICHAEL BELL,	)	
	)	
Respondent.	)	

RECOMMENDED ORDER AND DECISION

On January 21, 2005, Complainant, Gia Sroka, filed a complaint on her own behalf. That complaint alleged that Respondent, Michael Bell, harassed Complainant on the basis of her sex.

Respondent never filed a verified answer in this matter. Moreover, nobody claiming to represent Respondent appeared at the status hearings on April 5, 2005, June 7, 2005 or July 5, 2005. As a result, an order was entered finding Respondent in default.

A hearing on damages was held on August 3, 2005. Despite being served with notice of that hearing, Respondent did not appear. There was no request for posthearing briefing, but Complainant did file a written motion for attorney's fees. Respondent did not file a response to that motion and the time for filing such a response has passed. The matter is ready for decision.

FINDINGS OF FACT

The following findings of fact were derived from the record file in this case and from the evidence presented at the damages hearing.

1. In 2003, Complainant, Gia Sroka, worked for the Clerk of the Circuit Court of Cook County, Illinois. Complainant worked as a court clerk. She still holds that job.

2. From March of 2003 to August of 2003, Complainant's immediate supervisor was

Respondent, Michael Bell.

3. Respondent verbally abused Complainant and constantly made fun of her in front of others.

4. Respondent frequently made rude remarks about women, such as suggesting that women “are nuts.”

5. In August of 2003, Respondent threw some court papers across a desk and hit Complainant in the chest with them.

6. In August of 2003, Respondent kicked a drawer as Complainant was reaching her arm into that drawer. Complainant’s arm was bruised as a result. Complainant called 911 and filed a criminal complaint against Respondent because of the kicking incident. Complainant also went to her doctor to have her bruised arm examined.

7. Because she could not work with Respondent, Complainant arranged to be transferred to a similar job on a different floor of the courthouse. After her transfer, Respondent came to Complainant’s new floor, without an apparent business reason. Respondent’s visits to Complainant’s new work environment continued through September of 2003. The unexplained visits frightened Complainant.

8. Complainant experienced a great deal of emotional distress because of Respondent’s actions.

9. Complainant has requested an award of $20,000.00 to compensate her for the emotional distress caused by Respondent’s actions. That request is reasonable.

10. Complainant has requested compensation for the work of attorney Carey M. Stein at the rate of $380.00 per hour for 10.50 hours.

11. Complainant has requested compensation for the work of attorney Rachel E. Yarch at the rate of $295.00 per hour for 4.80 hours.

12. Under the circumstances, the requested hourly rate and requested number of hours should be accepted.

CONCLUSIONS OF LAW

1. Complainant is an "aggrieved party" as defined by section 1-103(B) of the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* (hereinafter "the Act").

2. Respondent is an "employee" as defined by section 2-101(A)(1)(a) of the Act and is subject to the provisions of the Act.

3. As a result of the default entered against Respondent, the allegations of the complaint in this matter are deemed admitted.

4. Because of his failure to file an objection to Complainant's request for attorney's fees, Respondent has waived the right to object to such fees.

DISCUSSION

The complaint in this matter was filed on January 21, 2005. Respondent never appeared for scheduled status hearings or took any other action to defend himself in this action. Therefore, on July 5, 2005, Respondent was found to be in default.

As a result of the default order, Respondent is deemed to have admitted the allegations of the complaint. ***Bielecki and Illinois Family Planning Council***, 40 Ill. HRC Rep. 109 (1988). Accordingly, a finding of liability against Respondent is appropriate. The only remaining issues involve Complainant's damages.

At the damages hearing in this matter, Complainant requested an award of one day's pay for a one-day suspension she suffered after complaining to management about Respondent's behavior. Complainant testified that the suspension was the result of an investigation. There was no testimony, though, that Respondent made the decision to suspend Complainant. Instead, it appears that the suspension was ordered by management at a level above either Complainant or Respondent. Since the management of the office of the Clerk of the Circuit Court made the suspension decision and that office is not a party to this action, Complainant should not be awarded the lost pay from the suspension.

Complainant should, however, be awarded a significant sum as compensation for the emotional distress she suffered. According to Complainant's testimony, Respondent harassed her for months. He embarrassed her in front of others and the stress she experienced continued up through the date of the damages hearing.

Moreover, on more than one occasion, Respondent physically abused Complainant. One instance caused Complainant to suffer a bruised arm. The bruising was sufficiently serious that Complainant went to her doctor. That incident also frightened Complainant to the point that she called 911 and filed a criminal complaint against Respondent.

At the damages hearing, Complainant requested an award of $20,000.00 as compensation for her emotional distress. On these facts, that amount is eminently reasonable and it is recommended.

Next, Respondent should be ordered to cease and desist from further harassment on the basis of sex. Future co-workers and subordinates should not have to fear him.

Finally, there is the issue of attorney's fees. The starting point for analysis of a motion for attorney's fees is the case of ***Clark and Champaign National Bank***, 4 Ill. HRC Rep. 193 (1982). Under ***Clark***, Complainant must first establish that the hourly rate she seeks is appropriate. Then, she must establish the number of hours reasonably expended on the case.

Complainant is seeking compensation for the work of two different attorneys. She is requesting different hourly rates for each attorney. Complainant has requested compensation for the work of attorney Carey M. Stein at the rate of $380.00 per hour for 10.50 hours and compensation for the work of attorney Rachel E. Yarch at the rate of $295.00 per hour for 4.80 hours. Although the requested hours are quite reasonable, the hourly rates are somewhat steep by the standards of Commission awards, particularly the requested rate for the relatively inexperienced Ms. Yarch. (The affidavit submitted in support of the fee petition states that she has "nearly 4 years of litigation experience.") If this issue had been hotly contested, the recommendation might be different. In this case, however, Respondent has made things quite

simple for Complainant.

At the damages hearing, Complainant was given leave to file her written motion for fees. That motion was timely filed and served on Respondent. Despite that service, Respondent failed to file any response to the motion. As a result, Respondent has waived the issue of attorney's fees. ***Mazzamuro and Titan Security, Ltd.***, ___ Ill. HRC Rep. ___, (1989CN3464, October 21, 1991). In light of that waiver, it is recommended that Complainant's fee request be granted in its entirety. The recommended attorney's fee award is $5,406.00.

RECOMMENDATION

Based upon the foregoing, it is recommended that an order be entered awarding the following relief:

A. That Respondent pay to Complainant the sum of $20,000.00 as compensation for the emotional distress suffered by Complainant as a result of Respondent's action;

B. That Respondent pay to Complainant the sum of $5,406.00 for attorney's fees reasonably incurred in the prosecution of this matter;

C. That Respondent cease and desist from further harassment on the basis of sex.

HUMAN RIGHTS COMMISSION

BY:_____
MICHAEL J. EVANS
CHIEF ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: March 30, 2006