

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)	
)	
KIMBERLY M. TYRCHA)	
Complainant,)	
)) Charge No:2000CF0850
)) EEOC No: 21BA00202
)) ALS Nos: 11511
and)	
)	
CUSTOM WELDING AND)	
FABRICATING SERVICE,)	
Respondent.)	

RECOMMENDED ORDER AND DECISION

This matter is before me on my own advice for issuance of a Recommended Order and Decision. Based upon the record, I make the following findings of fact:

FINDINGS OF FACT

1. Complainant filed a Charge with the Illinois Department of Human Rights (Department) on October 26, 1999.
2. On April 18, 2001, the Department, on behalf of Complainant, filed a Complaint with the Illinois Human Rights Commission (Commission) alleging Complainant to have been aggrieved by practices of sexual harassment and constructive discharge in violation of the Illinois Human Rights Act (Act), 775 ILCS 5/1-101 et. seq.
3. After discovery was completed, Respondent filed a motion for summary decision, which was denied on August 9, 2002.
4. On September 25, 2002, both Parties appeared through counsel. An order was entered ordering the Parties' Prehearing Memorandum to be filed by September 30, 2002 and setting a public hearing date for May 20, 2003 at 9:30 a.m.
5. The Parties' Joint Prehearing Memorandum was filed September 30, 2002.
6. On May 20, 2003, neither Party appeared for public hearing.
7. The record showed that no request for extension or other pleadings regarding the public hearing had been filed.
8. On that date, I entered an order ordering the Parties to file a motion for voluntary dismissal or other pleadings by June 2, 2003, and further warning that failure to do so would result in the issuance of a recommended order and decision to dismiss the matter with prejudice.
9. To date, no such pleadings or motions have been filed.

CONCLUSION OF LAW

The failure of the Parties to appear for scheduled public hearing or to comply with my May 20, 2003 order has resulted in unreasonable delay, justifying dismissal of this Complaint with prejudice.

DISCUSSION

Section 5300.750(e) of the Procedural Rules of the Illinois Human Rights Commission authorizes a recommendation for dismissal with prejudice where a party fails to appear at a scheduled hearing without requesting a continuance reasonably in advance, or unreasonably refuses to comply with any Order entered, or otherwise engages in conduct which unreasonably delays or protracts the proceedings. Similarly, 775 ILCS 5/8A-102(I)(6) authorizes a recommended order of dismissal, with prejudice, or of default as a sanction for a party's failure to prosecute her case, appear at a hearing, or otherwise comply with this Act, the rules of the Commission, or a previous Order of the Administrative Law Judge.

The record indicates that the Parties have failed to appear for the scheduled public hearing and have further failed to file a motion for voluntary dismissal or other pleadings. Therefore, I can take no other action in this case except to dismiss the Complaint.

RECOMMENDATION

Therefore, 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: June 6, 2003