This Recommended Order and Decision became the Order and Decision of the Illinois Human Rights Commission on 10/07/04.

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	)	
	)	
CHRIS YOUNG,	)	
	)	
Complainant,	)	
	)	
and	)	CHARGE NO: 2001SF0485
	)	EEOC NO: 21BA11451
ILLINOIS SECRETARY OF STATE AND BOB MOSBY,	)	ALS NO: S 11812
	)	
	)	
Respondents.	)	

RECOMMENDED ORDER AND DECISION

This matter is ready for a Recommended Order and Decision pursuant to the Illinois Human Rights Act (775 ILCS 5/1-101 et seq.). On April 21, 2003, Respondents, Illinois Secretary of State and Bob Mosby, filed a motion to dismiss this case due to Complainant's failure to comply with certain Commission Orders directing Complainant to provide Respondents with responses to discovery requests. Complainant, who is proceeding *pro se* in this case, has not filed a response, although the time for doing so has expired.

Contentions of the Parties

In their motion Respondents submit that dismissal of this case is warranted since Complainant has failed to respond to prior Orders from the Commission directing her to serve responses to outstanding discovery requests. Respondents also maintain that Complainant's failure to comply with these directives have unreasonably delayed these proceedings.

Findings of Fact

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

1. On March 28, 2001, Complainant filed a Charge of Discrimination alleging that she was the victim of sexual harassment, as well as sex and handicap discrimination in the workplace.

2. On June 28, 2002, the Department of Human Rights filed a Complaint on behalf of Complainant, alleging that Complainant was the victim of sexual harassment in the workplace.

3. On August 14, 2002, an Order was entered which established a discovery schedule and directed the parties to file status reports.

4. On November 15, 2002, counsel for Complainant filed a motion seeking leave to withdraw as counsel on behalf of Complainant based on Complainant's statement that she did not want counsel to represent her anymore.

5. On December 20, 2002, Respondents filed a motion to compel Complainant to serve sworn responses to outstanding discovery requests. The text of the motion indicated that on November 7, 2002, counsel for Respondents had sent to Complainant's counsel a letter seeking compliance with the outstanding discovery requests, and that Respondents had not received any response.

6. On December 20, 2002, an Order was entered, which granted counsel for Complainant's motion to withdraw and directed Respondents to serve Complainant directly with another copy of its discovery requests. The Order further reminded Complainant that she was responsible for answering any discovery requests, and that she would be acting on her own behalf until she obtained another counsel.

7. On March 3, 2003, Respondents filed a second motion to compel, after noting that Complainant had been served with discovery requests on January 3, 2003, that Complainant had not responded to said requests or sought additional time to do so, and that Complainant had not responded to Respondents' written inquiries seeking compliance with said discovery requests. Complainant did not file a response to this motion.

8. On March 19, 2003, an Order was entered that granted the motion to compel and directed Complainant to serve sworn responses to all outstanding discovery requests by April 11, 2003. The Order specifically cautioned Complainant that she could not continue to ignore Commission Orders directing her to respond to outstanding discovery requests. Additionally, the Order stated that if Complainant continued to disregard Commission Orders or failed to serve sworn discovery responses to all outstanding discovery requests by the date set forth in the Order, Complainant risked the entry of a future Order dismissing the case with prejudice.

9. On April 21, 2003, Respondents filed the instant motion to dismiss, indicating that Complainant had not served any responses to outstanding discovery requests in contravention to the Order of March 19, 2003. Complainant has not filed a response to this motion, although the time for doing so has expired.

Conclusions of Law

1. A Complaint may be dismissed when a party engages in conduct that unreasonably delays or protracts proceedings. See, 56 Ill. Admin. Code, Ch. XI, §5300.750(e).

2. The Complainant has unreasonably delayed proceedings by failing to tender responses to outstanding discovery requests or otherwise comply with directives contained in Commission Orders.

Determination

The Commission should dismiss the Complaint and the underlying Charge of Discrimination due to Complainant's failure to tender timely discovery responses or otherwise advance her case.

Discussion

Under the Commission's procedural rules, an administrative law judge may recommend to the Commission that a Complaint be dismissed where a complainant

engages in conduct that unreasonably delays or protracts proceedings. (See, 56 Ill. Admin. Code, Ch. XI, §5300.750(e).) On review, the Commission has upheld the use of such discretion to dismiss complaints in circumstances which are analogous to the case at bar. See, for example, **Ramirez and Wesco Spring Company**, 40 Ill. HRC Rep. 266 (1988), and **Hariford and Mitsubishi Motor Manufacturing of America**, ___ Ill. HRC Rep. ___ (1998SF0357, August 16, 2000).

Here, the circumstances also indicate that Complainant's inaction has served to unreasonably delay these proceedings. Specifically, I note that Complainant has not served responses to outstanding discovery requests, even though she was directed to do so on two separate occasions (i.e., on December 20, 2002 and March 19, 2003). Moreover, Complainant has failed to respond to this motion to dismiss, or, for that matter, to any of the prior motions to compel her compliance with outstanding discovery requests. These failures have resulted in unreasonable delay and render it difficult for the Commission to take any action with regard to this case except to dismiss it. See, for example, **Foster and Old Republic General Services, Inc.**, ___ Ill. HRC Rep. ___ (1990CA2290, November 8, 1993).

Recommendation

Accordingly, I recommend that this Complaint and the underlying Charge of Discrimination of Chris Young be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

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

ENTERED THE 29th DAY OF JULY, 2003.