

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)

SHARDAY ARNOLD,)

Complainant,)

and)

TCF NATIONAL BANK,)

Respondent.)

CHARGE NO(S): 2006CF2236
EEOC NO(S): 21BA61210
ALS NO(S): 07-782

NOTICE

You are hereby notified that the Illinois Human Rights Commission has not received timely exceptions to the Recommended Order and Decision in the above named case. Accordingly, pursuant to Section 8A-103(A) and/or 8B-103(A) of the Illinois Human Rights Act and Section 5300.910 of the Commission's Procedural Rules, that Recommended Order and Decision has now become the Order and Decision of the Commission.

STATE OF ILLINOIS)
HUMAN RIGHTS COMMISSION)

Entered this 9th day of February 2010

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

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Charge No.: 2006CF2236

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Judge Gertrude L. McCarthy

RECOMMENDED ORDER AND DECISION

On October 11, 2007, the Illinois Department of Human Rights (Department) filed a *Complaint of Civil Rights Violation* on behalf of Complainant. The complaint alleged discrimination based on race in violation of the Illinois Human Rights Act (Act).

On November 3, 2008, Respondent filed its *Motion to Dismiss for Failure to Appear at Status Hearings and to Respond to Discovery* and its *Memorandum in Support Thereof*.

The Department is an additional statutory agency that has issued state actions in this matter. The Department is therefore named as an additional party of record.

FINDINGS OF FACT

The following facts were derived from the record file in this matter:

1. On October 11, 2007, the Department filed a *Complaint of Civil Rights Violation* on behalf of Complainant alleging discrimination based on race in violation of the Act.

2. On January 9, 2008, Complainant appeared *pro se* before the Commission pursuant to a *Notice of Public Hearing*.

3. On March 27, 2008, Complainant appeared *pro se* for status.

4. On June 11, 2008, Respondent served its discovery requests upon Complainant at the address provided by her, 3903 Adams Street, Bellwood, Illinois 60104.

5. On June 11, 2008, Complainant appeared *pro se* for status and at that time was provided a copy of Respondent's discovery requests.

6. On July 9, 2008, Complainant filed a request with the Commission for additional time to respond to Respondent's discovery request.

7. On August 13, 2008, Complainant failed to appear for a scheduled status date; however, Complainant advised the Commission of her inability to appear.

8. On August 26, 2008, Respondent filed its *Motion to Compel*.

9. Complainant has failed to respond to discovery.

10. Complainant failed to appear for scheduled status dates of August 13, 2008, September 25, 2008, October 30, 2008 and February 26, 2009.

11. On November 3, 2008, Respondent filed its *Motion to Dismiss for Failure to Appear at Status Hearings and to Respond to Discovery* with an accompany memorandum in support thereof.

12. Complainant has not responded to the pending motion to dismiss.

CONCLUSIONS OF LAW

1. Complainant's failure to prosecute her case has unreasonably delayed the proceedings in this matter.

2. As a result of Complainant's failure to prosecute her case, this matter should be dismissed.

DISCUSSION

On October 11, 2007, the Department filed a *Complaint of Civil-Rights Violation* alleging discrimination based on race in violation of the Act.

Complainant appeared *pro se* for status dates of January 9, 2008 and March 27, 2008.

On May 29, 2008, Respondent filed its discovery requests.

On August 26, 2008, Respondent filed its *Motion to Compel*.

On November 3, 2008, Respondent filed its pending motion to dismiss accompanied by a memorandum in support thereof.

Complainant failed to appear for status dates of August 13, 2008, September 25, 2008, October 30, 2008 and February 26, 2009.

Respondent filed *Certificates of Service*. Those certificates showed notice to Complainant of the orders of August 13, 2008, September 25, 2008, October 30, 2008 and February 26, 2009.

The Complainant has failed to respond to discovery requests.

The Complainant has not filed a response to the pending motion.

Complainant has done nothing to ensure that her complaint is heard.

Complainant's actions, therefore have unreasonably delayed the proceedings in this matter.

It is a fundamental principle governing practice before the Commission that it is the singular responsibility of complainants to diligently pursue the disposition of their cases once they are docketed with the Commission. See *Johnson and Valley Green Management Co.*, IHRC, 11469, July 25, 2002.

The Commission routinely dismisses abandoned claims. See *e.g. Leonard and Solid Matter, Inc.*, IHRC, 4942, August 25, 1992. The Commission has dismissed cases where Complainant has failed to respond to discovery. See *Guszek and Addeco*, IHRC, 06-262, July 7, 2008. Additionally, the Commission has dismissed cases where Complainant has failed to appear before the Commission on dates scheduled for hearing or status. See, *e.g. Stewart and SBC Midwest*, IHRC, 04-227, March 22, 2006, and

Jackson and Chicago Firefighters Union Local No. 2, IHRC, 8193, September 29, 1997.

In light of those precedents, this case should be dismissed.

RECOMMENDATION

Based upon the foregoing, it is recommended that the complaint in this matter be dismissed in its entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____

GERTRUDE L. MCCARTHY
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: March 10, 2009