

City of Chicago
COMMISSION ON HUMAN RELATIONS

ADJUDICATION DIVISION

2005 Activity
Concerning Discrimination Cases
filed under the
Chicago Human Rights Ordinance
and
Chicago Fair Housing Ordinance



Chicago Commission on Human Relations
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City of Chicago
Richard M. Daley, Mayor

Commission on Human Relations
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Adjudication of Discrimination Complaints

The Enabling Ordinance of 1990 gave the reorganized Commission on Human Relations powers to enforce the Chicago Human Rights Ordinance and the Chicago Fair Housing Ordinance. These powers are exercised through the Adjudication Division. The work of the Division is:

- To receive and investigate complaints of discrimination in violation of the Chicago Human Rights Ordinance and the Chicago Fair Housing Ordinance.
- To facilitate the settlement of cases, where possible.
- To determine, after investigation and hearing, whether discrimination occurred in violation of the City of Chicago ordinances.
- To order remedies if the complainant proves at a hearing that discrimination has occurred.

The orders of the Commission's Adjudication Division carry the force of law. The cooperation of the alleged violator in any case where discrimination has been alleged is mandatory, and the Commission has powers of subpoena, default, and negative inference to support its investigations. If the Commission finds, after an administrative hearing, that discrimination occurred, it has the power to order injunctive relief as well as the payment of out-of-pocket damages, emotional distress damages, punitive damages, attorney's fees and costs, and fines.

The role of the Adjudication Division is neutral. It does not serve as either side's lawyer, advisor, or advocate. It is not a prosecutor of the complaint. It does not take the side of either the complainant (the person who filed the complaint) or the respondent (the alleged violator).

Filing a Discrimination Complaint

Adjudication intake staff are available during business hours to answer inquiries about filing a complaint under the Chicago Human Rights Ordinance or Chicago Fair Housing Ordinance. Telephone 312/344-4111. Intake staff assist the public with preparation of complaints on a walk-in basis or provide forms for self-preparation of complaints and filing by mail. There is no filing fee.

What is Discrimination?

To win a discrimination case under the City of Chicago ordinances, a complainant must be able to prove by a preponderance of the evidence that:

- The complainant was subjected to unfavorable treatment by a covered individual, business, or government entity (the respondent).
- This conduct was based on the complainant's status in one or more of these protected categories:

Race	Sex	Age
Color	Sexual Orientation	Disability
National Origin	Gender Identity	Source of Income
Ancestry	Marital Status	Military Discharge Status
Religion	Parental Status	

- The conduct was in one of the following covered areas:

Housing	Public Accommodation
Employment	Credit or Bonding Transactions

- The adverse action took place in the City of Chicago.
- The complainant filed the complaint within 180 days of the date of the alleged discriminatory action.
- The complainant was treated differently *because of* his or her protected status, and not for other legitimate, non-discriminatory reasons.

How Cases Proceed

People who believe they have been subjected to discrimination as defined in the City of Chicago ordinances must file written complaints with the Commission following a prescribed form. Once they do so, the Commission requires each respondent to provide a written answer and submit supporting documentation and information. A Commission investigator then gathers any additional information which may be needed to assess whether there is substantial evidence of an Ordinance violation. This is typically accomplished by interviewing the parties and any pertinent witnesses, and by examining relevant documents or sites. The investigator may seek information about the experiences of other people whose situations are comparable to the complainant's.

The investigator will also talk with the parties about whether they wish to try to settle the case before the investigation is completed. Settlement is voluntary.

If the case does not settle (or otherwise close), the investigator completes the evidence-gathering and writes a report summarizing the evidence. Commission senior staff then determine whether or not there is substantial evidence of discrimination. A finding of "substantial evidence" does not mean that the complainant has won the case, only that there is enough evidence of discrimination to proceed further. If the Commission finds that there is not substantial evidence of discrimination, it dismisses the case; the complainant may request a review of the dismissal.

If the Commission finds that there is substantial evidence of discrimination, it holds a mandatory settlement conference. If the parties do not reach a settlement agreement, the Commission then holds an administrative hearing. The administrative hearing is a trial, but somewhat less formal than in a court. A hearing officer, who is an attorney appointed by the Commission, presides over the hearing and manages the hearing process. The Commission does not prosecute the case or represent the complainant at this hearing; it is the complainant's responsibility to prove the case and to prove entitlement to injunctive and monetary relief as well as attorney fees and costs. Based on the Hearing Officer's recommendation and the hearing record, the Commission's Board of Commissioners makes the final determination about whether the complainant has proved that the respondent has violated the Chicago Human Rights Ordinance or Chicago Fair Housing Ordinance. If the Board of Commissioners rules that there has been a violation, it also determines what relief will be awarded to Complainant.

Annual Summary of Adjudication Division Activity

	Housing	Employment	Public Accommodation	Credit	TOTAL
COMPLAINTS FILED	71	154	132	0	357
Staff-Assisted	29	123	91	0	253
Self-Prepared	41	31	42	0	114
CASES CLOSED	62	185	178	2	427
Settled	17	57	47	1	122
Complainant Failed to Cooperate	17	34	76	0	127
Complainant Withdrew Case	14	21	19	0	54
Lack of Jurisdiction	3	3	18	0	24
No Substantial Evidence	10	69	17	1	97
Ruling After Hearing	1	1	1	0	3
CASES FORWARDED TO HEARING STAGE	13	9	23	0	45
Substantial Evidence	10	9	14	0	33
Default	3	0	9	0	12
REQUESTS FOR REVIEW after involuntary dismissal	1	12	2	0	15
Denied	1	12	2	0	15
Granted	0	0	0	0	0

DISCRIMINATION BASES CLAIMED IN COMPLAINTS FILED

PROTECTED CLASSES	Housing		Employment		Public Accommodation		Total Claims	
Race	21	30%	69	45%	56	42%	146	41%
Color	3	4%	5	3%	6	4%	14	4%
National Origin	8	11%	13	8%	8	6%	29	8%
Ancestry	1	1%	9	5%	2	1%	12	3%
Religion	3	4%	10	6%	1	1%	14	4%
Sex	10	14%	56	36%	11	8%	77	22%
Sexual Orientation	18	25%	20	13%	7	5%	45	13%
Gender Identity	1	1%	1	1%	4	3%	6	2%
Marital Status	8	11%	2	1%	0	0%	10	3%
Parental Status	7	9%	3	1%	0	0%	10	3%
Age	3	4%	30	19%	3	2%	36	10%
Disability	15	21%	19	12%	73	56%	107	30%
Source of Income	24	33%	1	1%	2	1%	27	8%
Military Discharge	0	0%	0	0%	0	0%	0	0%
Retaliation ¹	2	2%	11	7%	0	0%	13	4%
TOTAL COMPLAINTS	71		154		132		357	

Percentage figures show the percentage of *complaints* containing a *claim* of discrimination on the basis named. A complaint may claim discrimination on more than one basis (e.g. sex and age) arising out of the facts alleged.

Race was again the discrimination basis most frequently claimed (41% of all new complaints), followed by disability (30%) and sex (22%). Source of income was the most frequently-named basis in housing discrimination complaints (33%, usually involving Section 8 vouchers), followed by race (30%) and sexual orientation (25%). Marital and parental status discrimination were also claimed often in housing discrimination complaints (11% and 9%). In public accommodation discrimination complaints, disability discrimination claims, most often involving wheelchair accessibility of retail businesses, predominated (56% of new complaints), followed by race discrimination claims (42%). Other frequently-seen discrimination claims were sexual orientation (13% overall), age (19% of employment cases), and national origin (11% of housing cases and 8% of employment cases).

¹Retaliation is prohibited in the Chicago Human Rights Ordinance but not in the Chicago Fair Housing Ordinance. Therefore, retaliation claims in housing discrimination cases are dismissed without investigation.

Substantial Evidence Determinations

	Housing	Employment	Public Accommodation	Credit	TOTAL
Substantial Evidence	10	9	14		33
No Substantial Evidence	10	69	17	1	97
TOTAL FULL INVESTIGATIONS	20	78	31	1	130

The data above covers only those cases in which a determination of Substantial Evidence or No Substantial Evidence of discrimination was made after a full investigation. This does not cover all cases which the Commission completed in 2005. Many cases are settled, withdrawn, or dismissed for other reasons before completion of a full investigation. A finding of Substantial Evidence means that there is sufficient evidence that discrimination may have occurred to enable the case to go forward to mandatory conciliation and an administrative hearing if the case does not settle.

Settlements

A high percentage of discrimination cases close as a result of settlements between the parties. Complainants as a group obtain a great deal more relief through settlements than through awards after administrative hearings. In 2005, 29% of closed cases were resolved by settlement.

Settlement is voluntary between the parties and may occur at any stage of the investigation and adjudication process. When cases settle, the respondents do not admit liability and the Commission makes no judgment as to whether a violation occurred. The Commission does not require or advocate particular settlement terms although staff, conciliators, and hearing officers do encourage and facilitate settlement.

Individual settlement terms vary and, because many cases settle privately between the parties, the Commission often does not know the terms of settlements including their monetary value to complainants. In the interest of promoting settlement in the future, the Commission does not announce or publicize the terms of particular settlements, although parties may choose to do so if they have not agreed to the contrary as part of the settlement terms.

Summary of Administrative Hearing Actions

The Board of Commissioners issued a total of six rulings in discrimination cases in 2005. Three were rulings on liability and relief after administrative hearings conducted by appointed hearing officers. Two of those rulings were in favor of Complainants and one in favor of the Respondent. Three additional rulings awarded supplemental attorney fees and costs after proceedings in state and federal courts which vindicated earlier Commission rulings.

Rulings after Hearings in 2005	3
Supplemental Fee and Cost Rulings	3
 Rulings for Respondents (no liability)	 1
 Liability Rulings for Complainants	 2
Damages Awarded to Complainants	\$32,234.61
Fines Payable to City	\$ 1,500.00
 Attorney Fee and Cost Rulings for Complainants	 4
Fees Awarded	\$79,178.75
Costs Awarded	\$ 969.21

Attorney fee petitions are considered only after a ruling finding liability (and only if the complainant was represented by counsel); thus these rulings may occur in a year subsequent to the year when liability was found.

Summary of Rulings After Administrative Hearings

Employment Discrimination Cases

Mullins v. AP Enterprises, LLC, and Adams, CCHR No. 03-E-164
Disability Discrimination

After an order of default for failure to file a verified response, the Board of Commissioners ruled that Respondents discharged Complainant because of her disability. After consistently complimenting her work in Respondents' laundromat, they discharged her upon learning that she had been hospitalized for depression and was continuing to receive treatment for the condition. Complainant was awarded \$14,734.61 in back pay, \$20,000 in damages for emotional distress, and \$1,000 as punitive damages. The Board imposed the maximum fine of \$500 on each Respondent.

Housing Discrimination Cases

Edwards v. Larkin, CCHR No. 01-H-35
Disability Discrimination

After a finding of substantial evidence and a subsequent order of default for failure to attend Commission proceedings without good cause, the Board of Commissioners ruled that Complainant's landlord harassed her and terminated her tenancy due to her disabilities resulting from post-polio syndrome, a work-related injury, and a stroke. The Commission found that, among other things, the landlord persisted in demanding a rent increase beyond what the Section 8 program would approve, refused to accept Complainant's rent then pursued eviction proceedings based on non-payment of rent, turned off her heat, took her mail, disconnected and refused to repair her doorbell, refused to admit her special-

transportation driver, threatened and refused to admit her home care worker, turned on loud music, turned off stairway lights, pounded on her door at night, and called her a “crippled bitch.” The Commissioners awarded emotional distress damages of \$12,500, punitive damages of \$5,000, interest on the damages, attorney fees of \$9,306, and costs of \$94.65. A fine of \$500 was imposed.

Public Accommodation Discrimination Cases

Blakemore v. Antojitos Guatemaltecos Restaurant, CCHR No. 01-P-5
Race Discrimination

The Board of Commissioners found no liability for race discrimination where Complainant, who is African-American, claimed he was subjected to unequal terms and conditions of service because of his race when he ate at a small restaurant operated by individuals of Guatemalan ancestry. Complainant stated that he was the only African-American person in the restaurant and the only patron who was presented with the check for his meal before he finished eating and then was asked more than once whether he was ready to pay. He acknowledged that staff did not address him rudely or make any reference to his race, and that he was able to eat his meal and pay when ready. The Commission held that Complainant was not subjected to an adverse action because this conduct did not curtail his use of the restaurant in a material way. The Commission further held that Respondent established a legitimate, non-discriminatory reason for the conduct, namely that the other restaurant patrons were well-known to staff and customarily came to the cash register on their own to receive their bills and pay. The Commission found no evidence of intentional discrimination based on race.

Other Rulings and Hearing Activity

Although the Board of Commissioners made only three rulings on liability and relief in 2005, there was no lack of hearing-stage activity. The Board also issued three supplemental rulings granting petitions of Complainants for additional attorney fees and costs incurred in defending the Commission’s prior awards of relief in court proceedings filed by Respondents:

Salwierak v. MRI of Chicago, Inc., and Baranski, CCHR No. 99-E-107
Sex Discrimination (Sexual Harassment)

The Board awarded an additional \$10,200 in attorney fees and \$143.09 in costs incurred in obtaining a judgment, in Respondent Baranski’s Bankruptcy Court proceeding, for payment of the monetary relief the Commission awarded for sexual harassment by Complainant’s employer. The judgment prevented discharge of the awards in the bankruptcy; thus the additional legal work was necessary to secure Complainant’s rights to relief for the discrimination.

Sellers v. Outland, CCHR No. 02-H-37
Sex Discrimination (Sexual Harassment)

The Board awarded an additional \$2,225 in attorney fees after Complainant successfully defended the Commission’s favorable rulings on her claim that she was sexually harassed by her landlord. In a *certiorari* proceeding filed by Respondent in the Circuit Court of Cook County, the court affirmed the Commission’s order of default and finding of liability, and also affirmed the Commission’s awards of relief with minor modifications.

Sullivan-Lackey v. Godinez, CCHR No. 99-H-89
Source of Income Discrimination

The Board awarded additional attorney fees of \$57,447.75 and additional costs of \$731.47 after Complainant successfully defended the Commission's rulings in her favor on her claim of source of income discrimination after Respondents refused to rent an apartment to her because she would have used a Section 8 voucher to support the rent. The Illinois Appellate court reinstated the Commission's rulings, which had been vacated by the Circuit Court, in a precedent-setting decision confirming that Section 8 vouchers are a source of income under the Chicago Fair Housing Ordinance.

Seventeen other cases scheduled for an administrative hearing in 2005 did not progress to a Board ruling. Eight were settled between the parties before the hearing commenced, and one was settled during the hearing. This group included two employment cases, two housing cases, and five public accommodation cases. Four cases were dismissed after the complainant failed to appear, of which three were employment cases and one a public accommodation case. Complainants withdrew two housing cases, one before the scheduled hearing and one upon receiving an unfavorable recommended ruling after a hearing was held. Two scheduled hearings were stayed due to bankruptcy filings by the Respondents.

In addition, six cases were resolved by settlement at a conciliation conference held after the Commission's investigation revealed substantial evidence of discrimination, making it unnecessary to schedule an administrative hearing. This group included four employment cases and two public accommodation cases. An additional housing case was awaiting receipt of settlement documents after a conciliation conference.

At the close of 2005, the Commission's docket included eleven scheduled administrative hearings and six conciliation conferences. Another six cases were in the briefing and ruling process after an administrative hearing held in 2005. In total, 34 cases were pending in the conciliation and hearing process.