

City of Chicago
COMMISSION ON HUMAN RELATIONS
500 N. Peshtigo Court, 6th Floor
Chicago, IL 60611
(312) 744-4111 [Voice] / (312) 744-1088 [TDD]

IN THE MATTER OF)
)
Valerie J. Gill)
COMPLAINANT,)
AND) Case No. 96-E-168
)
Crayon Campus & Erimie) Date Mailed: October 15, 1996
RESPONDENT.)

To: Lonny Ben Ogus Valerie Gill
39 S. LaSalle, Ste. 1400 1723 W. Foster
Chicago, IL 60603 Chicago, IL 60640

ORDER

THE CHICAGO COMMISSION ON HUMAN RELATIONS HEREBY ORDERS:

Valerie Gill filed a complaint of race discrimination against Crayon Campus and Rosemarie Erimie, its owner ("Respondents"). The Commission sent Respondents the complaint as well as a request for documents and information concerning the case. Respondents were to file a Verified Response and a response to the request for documents and information on or before August 7, 1996.

However, Respondents did not respond at all. Therefore, on August 23, 1996 (approximately two weeks after the original deadline), the Commission sent the Respondents a Notice of Potential Default. That Notice stated that Respondents had neglected to respond to the Commission's request for documents and information. It gave Respondents another two weeks (by September 6, 1996) to submit either a complete response or an explanation setting forth good cause for its failure to file a proper response. The Notice specifically stated that, if Respondents did neither, "the Commission shall enter an Order of Default." The Notice also explained that an Order of Default "means that the Respondent shall be deemed to have admitted the allegations of the Complaint and to have waived its defense(s) to the allegations, including defenses concerning the Complaint's sufficiency."

The Commission received nothing from Respondents by September 6, 1996. On September 25, 1996, with still no response from Respondents, the Commission decided to issue an Order of Default and to set the case for hearing on the issue of damages. However, before the Commission was able to finalize its orders, Respondents filed a Motion to Vacate Any Default, their Verified Response, and their Response to Request for Documents and Information.

Regulation 215.250 explains the standard to have an order of default vacated. It states that the request must be filed within 30 days of the mailing of the order of default. That obviously occurred in this case as the order had not yet been mailed at the time the motion to vacate was filed. The regulation also states that the request:

must show good cause why the Respondent did not comply with the requirement which formed the basis of the Order of Default when required. Further, the Respondent must attach to the request to vacate all material which formed the basis of the Order of Default or must show good cause for not doing so (such as an explanation why full compliance is not possible).

In their motion to vacate, Respondents state that there were problems receiving Complainant's complaint from the Commission. The Commission's records show that Respondents did call the Commission after they received the Notice of Potential Default and claimed not to have received the Complaint. A representative came to the Commission's office on or around September 3, 1996 and picked up the complaint. However, Respondents did not ask for a continuance of the date by which the Notice required they respond (three days later). Therefore, although Respondents should have sought a continuance for their response to the Notice, the Commission finds that their actions demonstrate that they may have not received the complaint in a timely manner and so have good cause for not responding to the Notice when required. The Commission has no reason to believe that the Respondents "manufactured" a problem with receipt of the complaint in order to avoid the default.

Therefore, because Respondents have presented good cause and because the Respondents filed all of the requested documents (Verified Response and response to request for documents and information) before the order of default was actually mailed, the Commission grants the request to vacate the order of default.

Therefore, the Commission shall continue with its investigation into this case. It expects full and timely cooperation from both parties.

PURSUANT TO REGULATION 250.100(b), A PARTY MAY OBTAIN REVIEW OF THIS ORDER ONLY AFTER THE COMMISSION HAS ISSUED AN ORDER DISMISSING THE COMPLAINT OR RULING UPON AN ADMINISTRATIVE HEARING.

By: Clarence N. Wood
Chair/Commissioner

for: CHICAGO COMMISSION ON HUMAN RELATIONS

Date: October 11, 1996