

FEB 28 2014

INDIANA STATE
CIVIL RIGHTS COMMISSION

**STATE OF INDIANA
INDIANA CIVIL RIGHTS COMMISSION**

HEATHER WARD

Complainant,

vs.

HUBBARD TRUCKING,

Respondent.

) Docket No.: EMse12051164

) EEOC No.: 24F-2012-00528

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

On February 6, 2014, Noell F. Allen Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC") entered her Proposed Findings of Fact, Conclusions of Law, And Order ("the proposed decision").

No objections have been filed to the ICRC's adoption of the proposed decision.

Having carefully considered the foregoing and being duly advised in the premises, the ICRC hereby adopts as its own the findings of fact, conclusions of law, and order proposed by the ALJ in the proposed decision, a copy of which is attached hereto and incorporated herein by reference.

INDIANA CIVIL RIGHTS COMMISSION



COMMISSIONER



COMMISSIONER



COMMISSIONER



COMMISSIONER

Dated this 28th Day of February, 2014.

Served by CERTIFIED Mail on the following:

Heather Ward
419 S. Gerard Drive
Indianapolis, IN 46241

Hubbard Trucking
ATTN: Juwana Hubbard
422 S. Emerson Avenue
Indianapolis, IN 46219

and to be personally served on the following attorney of record:

Michael C. Healy, Esq.; Staff Counsel
Indiana Civil Rights Commission
Indiana Government Center North
100 North Senate Avenue, Room N103
Indianapolis, IN 46204-2255

FEB 06 2014

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HEATHER WARD

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vs.

HUBBARD TRUCKING,

Respondents.

Docket No.: EMse12051164

EEOC No.: 24F-2012-00528

PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

On January 24, 2014, the undersigned Administrative Law Judge (“ALJ”) for the Indiana Civil Rights Commission (“ICRC”) entered her NOTICE OF PROPOSED ORDER OF DISMISSAL (“Notice”). There has been no response to that Notice from the Complainant, Heather Ward, or otherwise.

Having carefully considered the foregoing and being duly advised in the premises, the undersigned ALJ hereby proposed the ICRC enter the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. This case involves a complaint of discrimination filed by Ms. Ward against the Respondent, Hubbard Trucking (“Hubbard”) alleging Hubbard discriminated against Ms. Ward on the basis of sex and sexual harassment. (Complaint of Discrimination, May 2012).
2. The ICRC’s Deputy Director found probable cause to believe an unlawful discrimination practice has occurred. (Notice of Finding, February 2013).
3. The ALJ proposes to dismiss this matter on the following grounds:
 - a. On December 9, 2013, Ms. Ward’s attorney of record, Gregory Coleman, moved for leave to withdraw from the case because Ms. Ward failed to maintain any communication with Mr. Coleman.

- b. On January 10, 2014, the ALJ issued an Order Scheduling Pre-Hearing Conference (“ORDER”) for Thursday, January 23, 2014 at 10:00 A.M. Eastern Time. (Order Scheduling Pre-Hearing Conference, January 2014)
 - c. No one appeared on the Complainant’s behalf at the Initial Pre-Hearing Conference on January 23, 2014 although the ALJ attempted to contact Ms. Ward at the number listed in the ICRC database.
 - d. The ALJ informed the parties on the ORDER that “[a] party who fails to attend or participate in a Pre-Hearing Conference, Hearing, or other later stage of the proceeding may be held in default or the matter may be dismissed.”
4. The Indiana Administrative Code sets out duties of the Complainant. “Each complainant has the duty to diligently prosecute his or her case before the commission. Such duties include, without limitation, the following obligations: (a) [to] promptly notify the commission of any changes in address or telephone number.” 910 IAC 1-16-1(a)
 5. The regulation further provides that “failure by a complainant to fulfill his or her duty to diligently prosecute a complaint may result in issuance of a finding that complainant did not proceed and a dismissal of the complaint with prejudice...” 910 IAC 1-16-1(b)
 6. Ms. Ward has failed to update the ICRC with a current telephone number.
 7. Ms. Ward has failed to prosecute her case before the commission.
 8. The Notice advised Ms. Ward she may file a written motion requesting that the proposed order of dismissal not be imposed and stating the grounds upon which it relies within seven (7) days after service and that if no such written motion was filed, the ALJ MUST enter the proposed dismissal order. IC 4-21.5-3-24(b), (c).
 9. Ms. Ward did not file a written motion requesting that the proposed order of dismissal not be imposed.
 10. Any Conclusion of Law that should have been deemed a Finding of Fact is hereby adopted as such.

CONCLUSIONS OF LAW

1. The ICRC has jurisdiction over the parties and subject matter.
2. Dismissal is appropriate under IC 4-21.5-3-24 because Ms. Ward failed to file a written motion requesting that the proposed order of dismissal not be imposed.

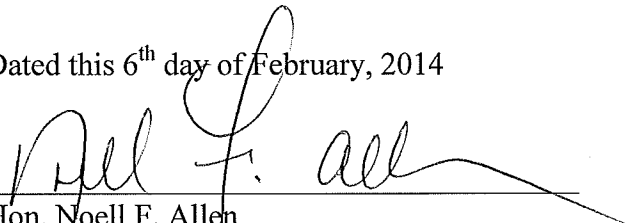
3. Dismissal is also appropriate under 910 IAC 1-16-1 because the Complainant failed to fulfill her duty to diligently prosecute her claim.
4. Administrative review of this proposed decision may be obtained by parties who are not in default by the filing of a writing specifying with reasonable particularity each basis for each objection within fifteen (15) days of after service of this proposed decision. IC 4-21.5-3-29(d).
5. Any Conclusion of Law that should have been deemed a Finding of Fact is hereby adopted as such.

ORDER

Based upon the foregoing findings of fact and conclusions of law, it is hereby ordered that:

1. Heather Ward's Complaint is **DISMISSED**, with prejudice.

Dated this 6th day of February, 2014



Hon. Noell F. Allen
Administrative Law Judge
Indiana Civil Rights Commission

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Indianapolis, IN 46241

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