

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL**

Angela Champ Daniels,)	
)	
Charging Party)	
)	
and)	Case No. L-CA-17-003
)	
County of Cook and Sheriff of Cook County,)	
)	
Respondent)	

ORDER

On April 25, 2019, Administrative Law Judge Michelle N. Owen, on behalf of the Illinois Labor Relations Board, issued a Recommended Decision and Order in the above-captioned matter. No party filed exceptions to the Administrative Law Judge’s Recommendation during the time allotted, and at its July 9, 2019 public meeting, the Board, having reviewed the matter, declined to take it up on its own motion.

THEREFORE, pursuant to Section 1200.135(b)(5) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1200.135(b)(5), the parties have waived their exceptions to the Administrative Law Judge’s Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.

Issued in Chicago, Illinois, this 9th day of July 2019.

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL**

/s/ Helen J. Kim
Helen J. Kim
General Counsel

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Charging Party,)	
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and)	Case No. L-CA-17-003
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County of Cook and Sheriff of Cook County,)	
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ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION AND ORDER

On August 3, 2016, Angela Champ Daniels (Daniels or Charging Party) filed a charge with the Illinois Labor Relations Board’s Local Panel (Board) pursuant to Section 11 of the Illinois Public Labor Relations Act, 5 ILCS 315 (2014), as amended (Act), and the Rules and Regulations of the Illinois Labor Relations Board, 80 Ill. Admin. Code, parts 1200 through 1240 (Rules), alleging that the County of Cook and Sheriff of Cook County (Respondents) violated Section 10(a)(1) of the Act. The charge alleged that the Respondents violated the Charging Party’s Weingarten rights and took adverse employment action against her based on information gathered in violation of her Weingarten rights. The charge was investigated in accordance with Section 11 of the Act. On August 6, 2018, the Board’s Executive Director issued a Complaint for Hearing. The Respondents filed a timely answer and affirmative defenses on August 21, 2018.

After full consideration of the record, I recommend the following:

I. FINDINGS OF FACT

On September 6, 2018, I issued an Order Scheduling Hearing setting the case for hearing on October 30 and 31, 2018. On October 19, 2018, Daniels sent an email to me stating that she would be unable to attend the hearing on the scheduled dates due to a work conflict. On October 22, 2018, I sent an email to Daniels and the attorney for the Respondents, Natalie N. Ellis, informing the Parties that Daniels should discuss the request for a continuance with Ellis. In addition, I informed the Parties that we could reschedule the hearing if the parties could agree to new dates. On October 23, 2018, Ellis sent an email to me stating that the Parties had agreed to

November 5, 2018, as a tentative hearing date. On October 24, 2018, I sent an email to the Parties informing them that the hearing was scheduled for November 5, 2018.

On October 30, 2018, Ellis sent an email to Daniels and me stating that the Respondents would like to reschedule the November 5, 2018 hearing. That same day, I responded to the Parties inquiring whether Daniels objected to rescheduling the hearing. On October 31, 2018, Ellis sent an email to Daniels and me stating that Ellis had spoken with Daniels by telephone and Daniels had indicated that she did not object to rescheduling the hearing. On November 8, 2018, Ellis sent an email to Daniels and me informing me that the Parties had agreed on November 20, 2018, as a tentative hearing date. That same day, I sent an email to the Parties informing them that the hearing was scheduled for November 20, 2018.

On November 19, 2018, Daniels sent an email to Ellis, which stated: “I apologize for my late response. I am withdrawing my intended suit. Please consider this email as my official notice of intent.” That same day, Ellis forwarded Daniels’ November 19, 2018, email to Daniels and me. Ellis stated in her email message: “[t]hank you. I have cc’d Judge Owen on this email as you are requesting to withdraw your lawsuit.” On November 20, 2018, I sent an email to the Parties informing them that the November 20, 2018, hearing was canceled. I also asked Daniels to “confirm that you wish to withdraw your charge.”

Later that day, Daniels forwarded, to only me, the email message that Ellis had sent to Daniels and me on November 19th. Daniels stated in her email, “[j]ust an FYI, this was an email sent to me by Natalie Ellis of which I found to be highly offensive. She threatens me which I perceive as ‘bullying’. Therefore, under duress I withdrew my claim. I have dealt with Cook County and it’s [sic] representatives on more than one occasion and I know of their unscrupulous tactics.” That same day, I forwarded, to the Parties, Daniels’ November 20th email message, and I asked Daniels, “do you wish to withdraw your claim or do you want to move forward with a hearing?” That same day, I also sent an email to the Parties telling Daniels, “[i]f you need time to consult with a lawyer please let me know.”

On December 6, 2018, I sent an email to the Parties asking Daniels to: “[p]rovide a response to the following questions by December 14, 2018: 1. Do you wish to withdraw your charge? 2. Do you wish to move forward with a hearing? 3. Do you need time to consult with an attorney?” On December 14, 2018, Daniels responded to my December 6th message stating: “I am going to seek

legal counsel.” On December 17, 2018, I sent an email to the Parties asking Daniels to “inform me once you have obtained an attorney.” I did not receive a response.

On February 7, 2019, I sent an email to the Parties asking Daniels, “[h]ave you obtained legal counsel?” I did not receive a response.

On February 26, 2019, Ellis sent an email to Daniels and me asking whether the case could be dismissed with prejudice due to Daniel’s “unresponsiveness.”

On March 5, 2019, I sent an email to the Parties asking Daniels: “[h]ave you been able to obtain legal counsel? Please let me know by Friday, March 8, 2019.” I did not receive a response.

On April 15, 2019, I sent an email to the Parties stating, “I have not received a response to my March 5, 2019, email in which I asked whether you had been able to obtain legal counsel. As such, I will be issuing a decision dismissing the case with prejudice unless you indicate, by Thursday, April 18, 2019, that you wish to proceed with this case.” To date, I have not received a response.

II. DISCUSSION AND ANALYSIS

The issue is whether the Complaint for Hearing should be dismissed because the Charging Party has failed to prosecute her claims.

The Executive Director may dismiss a case during its investigation where a charging party has failed to comply with a request for evidence in support of a charge or has not responded to a request for a written withdrawal. See e.g., Ill. Council of Police & Sheriff of Vill. of Maywood, 25 PERI ¶ 89 (IL LRB-SP 2009); Serv. Emps. Int’l Union, Local 880, 12 PERI ¶ 2006 (IL SLRB 1995), aff’d by unpub. order, 13 PERI ¶ 4008 (1996); State of Ill. Dep’t of Cent. Mgmt. Servs. (Dep’t of Rehab. Servs.), 12 PERI ¶ 2005 (IL SRLB 1995), aff’d by unpub. order, 13 PERI ¶ 4008 (1996). After a complaint has been issued, Section 1220.50(h) of the Board’s Rules allows an administrative law judge to dismiss a case for want of prosecution if a charging party fails to appear at the hearing after proper service. 80 Ill. Admin. Code § 1220.50(h). Since 1200.40(c) of the Board’s Rules allows administrative law judges to “regulate the proceedings of the case, and the conduct of the parties,” the administrative law judge has the authority to dismiss a complaint where the charging party has indicated an unwillingness to prosecute his or her claims. See Chicago Transit Auth., 29 PERI ¶ 79 (IL LRB-LP G.C. 2012); Am. Fed’n of State, Cnty. & Mun. Emps., Council 31, 24 PERI ¶ 130 (IL LRB-SP G.C. 2009); Cnty. of Cook, 10 PERI ¶ 3015 (IL LLRB

G.C. 1994). Under the Act, the Board does not prosecute unfair labor practice charges but instead relies upon charging parties to pursue their claim. See Chicago Hous. Auth., 4 PERI ¶ 3020 (IL LLRB 1998).

Here, the Complaint for Hearing should be dismissed because the Charging Party has indicated an unwillingness to prosecute her claims. On September 6, 2018, I issued an order scheduling the hearing for October 30 and 31, 2018. Thereafter, by request of the Parties, the hearing was rescheduled to November 5, 2018. By the request of the Parties, the hearing was again rescheduled to November 20, 2018. On November 19, 2018, Daniels indicated that she wished to withdraw her case. The next day, I canceled the November 20, 2018, hearing, and asked the Charging Party to confirm that she wished to withdraw her charge. Later that day, the Charging Party informed me that her withdrawal had been made under duress. In response, I asked the Charging Party whether she wished to withdraw her claim or move forward with a hearing. In addition, I asked that Charging Party notify me if she needed time to consult with an attorney. On December 6, 2018, I inquired whether the Charging Party wished to withdraw her charge, move forward with a hearing, and/or consult with an attorney. On December 14, 2018, she indicated that she was going to seek legal counsel. On December 17, 2018, I asked Daniels to notify me once she had obtained an attorney. I did not receive a response. On February 7, 2019, I again asked Daniels whether she had obtained legal counsel. I did not receive a response. On March 5, 2019, I asked Daniels to inform me by March 8, 2019, if she had obtained legal counsel. I did not receive a response. On April 14, 2019, I informed Daniels that I had not received a response to my March 5, 2019, inquiry and that I would be issuing a decision dismissing her case with prejudice if she did not indicate by April 18, 2019, that she wished to proceed with the case. To date, I have not received a response from Daniels. Under these circumstances, a reasonable exercise of discretion requires me to recommend dismissal of the Complaint for Hearing.

III. CONCLUSIONS OF LAW

The Charging Party has failed to prosecute her claims by not taking part in Board procedures leading to hearing.

IV. RECOMMENDED ORDER

IT IS HEREBY ORDERED that the Complaint for Hearing is dismissed with prejudice.

V. EXCEPTIONS

Pursuant to Section 1200.135 of the Board’s Rules, parties may file exceptions to the Administrative Law Judge’s Recommended Decision and Order and briefs in support of those exceptions no later than 30 days after service of this Recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 15 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge’s Recommendation. Within seven days from the filing of cross-exceptions, parties may file cross-responses to the cross-exceptions. Exceptions, responses, cross-exceptions and cross responses must be filed with the Board’s General Counsel, at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103, or to the Board’s designated email address for electronic filings, at ILRB.Filing@Illinois.gov. All filing must be served on all other parties. Exceptions, responses, cross-exceptions, and cross-responses will not be accepted at the Board’s Springfield office. The exceptions and/or cross-exceptions sent to the Board must contain a statement of listing the other parties to the case and verifying that the exceptions and/or cross-exceptions have been provided to them. The exceptions and/or cross-exceptions will not be considered without this statement. If no exceptions have been filed within the 30-day period, the parties will be deemed to have waived their exceptions.

Issued at Chicago, Illinois this 25th day of April, 2019

**STATE OF ILLINOIS
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LOCAL PANEL**

/s/ Michelle N. Owen

**Michelle N. Owen
Administrative Law Judge**