

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

Darleen Spencer and Donna Morger,)	
)	
Charging Party)	
)	
and)	Case No. S-CA-16-025
)	
Village of South Pekin,)	
)	
Respondent)	

ORDER

On October 31, 2016, Administrative Law Judge Sarah R. Kerley, 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 March 7, 2017 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the parties have waived their exceptions to the Administrative Law Judge's Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.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 7th day of March 2017.

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Helen J. Kim
General Counsel

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Charging Parties,)	Case No. S-CA-16-025
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Village of South Pekin,)	
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Respondent.)	

ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION AND ORDER

On September 3, 2015, Charging Parties Darleen Spencer and Donna Morger filed a charge with the State Panel of the Illinois Labor Relations Board (Board) pursuant to the Illinois Public Labor Relations Act, 5 ILCS 315 (2014), *as amended* (Act), and the Rules and Regulations of the Board, 80 Ill. Admin. Code, Parts 1200 through 1300 (Rules), alleging that Respondent Village of South Pekin violated the Illinois Public Relations Act (Act), 5 ILCS 315 (2014) *as amended*. The charge was investigaged in accordance with Section 11 of the Act, and on June 9, 2016, the Board’s Executive Director issued a Complaint for Hearing, which alleged that the Respondent violated Sections 10(a)(1), (2) and (3) of the Act.

The case had been assigned to Administrative Law Judge Deena Sanceda who, beginning July 9, 2016, attempted to schedule hearing dates with the parties. The Charging Parties sought and received a number of extensions of time to select hearing dates with Respondent’s counsel, indicating their intent to retain a lawyer to represent them. In September 2016, the case was reassigned to the undersigned Administrative Law Judge. I, too, made efforts to get the matter scheduled for hearing. Charging Parties again sought and received additional time to respond in light of their continued efforts to retain counsel. On October 7, 2016, I entered a Scheduling Order setting the matter for hearing on November 7 and 14, 2016, and directing the parties to jointly complete a pre-hearing memorandum required to be received in the Springfield office by the close of business on October 31, 2016.

On October 17, 2016, via electronic message from Ms. Spencer’s email account, the Charging Parties communicated to counsel for Respondent and myself that they wished to

withdraw their complaint. They pointed both to their inability to obtain counsel and to the fact that witnesses were unwilling to testify.

In response, on October 17, 2016, I asked Ms. Spencer to confirm that she understood that if she withdrew her complaint, she would not have a hearing and that the Board would close the file. I similarly asked Ms. Morger to communicate the same from email account. I received no response from either Ms. Spencer or Ms. Morger.

On October 20, 2016, I indicated to Ms. Spencer and Ms. Morger that if I did not receive a response from them by October 25, 2016, I would dismiss the case. I have not received any correspondence from Ms. Spencer or Ms. Morger since October 17, 2016.

I. ANALYSIS

The Board has long recognized its authority to dismiss claims at the investigative stage when parties fail to respond to requests for information from Board agents. *See Kenneth Sawyer and International Brotherhood of Teamsters, Local 700*, 32 PERI ¶ 186 (IL LRB-LP 2016); *SEIU Local 880 (Kirk, et al.)*, 12 PERI ¶ 2006 (IL SLRB 1995), *affd by unpub. order*, 13 PERI ¶ 4008 (1996). Moreover, Rules 1200.40 specifically authorizes an Administrative Law Judge to require parties to provide pre-hearing information. 80 Ill. Adm. Code § 1200.40(b).

Here, the Charging Parties initially indicated their unwillingness to go forward with their case at a hearing before an Administrative Law Judge, despite having sought and received significant extensions of time to seek an attorney or to otherwise prepare for hearing. However, when asked to communicate their understanding and to provide additional correspondence, Charging Parties failed to respond. Further, there is no indication that the Charging Parties have reached out to Respondent's counsel in order to provide information necessary for compliance with my Scheduling Order of October 7, 2016.

Charging Parties have indicated their desire to have their case withdrawn, have failed to respond to my requests for additional information, and have taken no action to comply with my Scheduling Order. Given these facts, the Complaint for Hearing should be dismissed.

II. CONCLUSIONS OF LAW

Charging Parties have failed to comply with directives from the Administrative Law Judge.

III. RECOMMENDED ORDER

IT IS HEREBY ORDERED that the charge is dismissed.

IV. 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 in 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 (7) 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 General Counsel of the Illinois Labor Relations Board, 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 filings 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 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 Springfield, Illinois, this 31st day of October, 2016.

**STATE OF ILLINOIS
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s/ Sarah R. Kerley

**Sarah R. Kerley
Administrative Law Judge**