

COOK COUNTY COMMISSION ON HUMAN RIGHTS

69 West Washington Street, Suite 3040
Chicago, Illinois 60602

Dawn AUSTIN, Complainant)	
)	
v.)	Case No. 2011E022
)	
COOK COUNTY, ¹ Respondent)	Entered: March 20, 2014
)	

ORDER

On or about July 18, 2011, Complainant Dawn Austin (“Austin”) filed a complaint against her former employer, Respondent Cook County (“Cook County”), for race-based employment discrimination. Austin alleged that Cook County violated the Cook County Human Rights Ordinance (“Human Rights Ordinance”) when, on February 1, 2011, it discharged Austin as well as several other black and Hispanic facilities management employees. The Cook County Commission on Human Rights (“Commission”) has not yet made an evidence determination with respect to this matter, but on October 31, 2013, Cook County moved to defer the Commission’s investigation in favor of a parallel investigation by the Illinois Department of Human Rights (“IDHR”). To date, Austin has not filed a response to Cook County’s motion to defer.

The Human Rights Ordinance offers persons and entities doing business or residing in Cook County a host of protections against unlawful discrimination in the areas of employment, housing, public accommodations, credit transactions and access to County services, programs and contracts. *See* Cook County Code of Ordinances (“County Code”), §§ 42-35-42-40. In enforcing the County’s anti-discrimination laws, this Commission has concurrent jurisdiction over allegations of unlawful discrimination with IDHR (which investigates alleged discrimination for violations of state laws) and the U.S. Equal Employment Opportunity Commission (“EEOC”) (which investigates alleged discrimination violations of federal laws).

Nonetheless, the Commission’s Procedural Rules allow for the Commission to defer its investigation in favor or an investigation or adjudication by either of these entities. Specifically:

The Commission on its own initiative may defer investigation of a timely filed Complaint when the same Complaint, or a substantially similar Complaint, has been filed by the Complainant with another similar administrative agency. In addition, any party

¹ The respondent as filed was “Cook County Facilities Management.” The Commission has substituted the correct party.

may file a motion, in accordance with Section 420.170 herein, requesting that the Commission defer investigation into a timely filed Complaint pending resolution of the same Complaint, or a substantially similar Complaint, which has been filed by the Complainant with another similar administrative agency. The following is a non-exhaustive list of factors which the Commission may consider in determining whether to exercise its discretion to defer an investigation:

- (A) Conservation of administrative resources;
- (B) Complainant's right to a timely investigation;
- (C) Minimization of Respondent's burden;
- (D) Procedural or investigative status of charges/complaints filed with the administrative agency as evidenced by one or more of the following: completion of document exchange, witness interviews, response to questionnaires, and the holding of fact-finding conferences; and
- (E) Administrative agency backlog.

CCHR Pro. R. 440.105.

Here, Austin filed substantially the same complaint against Cook County with IDHR on or about July 18, 2011. In her IDHR complaint, Austin alleges race-based employment discrimination on the basis of her termination from the facilities management department on February 1, 2011. Allowing IDHR to complete its investigation would certainly conserve this Commission's administrative resources and would minimize the burden to the respondent of providing the same responses, interviews, evidence, *etc.* to two different human rights commissions on the same set of allegations. The Commission might still push ahead with an independent investigation if it were convinced that it could investigate Austin's claims in a timely fashion. The Commission, however, is still working through a significant backlog of cases and deferring its investigation now in favor of IDHR's investigation would not be the cause of additional delay for Austin. With neither party providing the Commission with any information about the investigative status of Austin's claims at IDHR (or the state commission), this Commission is left to presume that all factors favor deferral in this matter.

As a word of caution to the parties, the Commission's Procedural Rules state that when "the Commission defers its investigation of a Complaint in favor of the investigation or adjudication of the same Complaint, or a substantially similar Complaint, with another similar administrative agency . . . the factual findings and conclusions of law of that other similar administrative agency shall be binding on the parties to the Complaint pending before the Commission unless the Commission orders otherwise." *Id.*

For the foregoing reasons, the Commission hereby grants Cook County's motion to defer this matter in favor of IDHR matter 2012CF0129. Either party may petition the Commission to re-open this matter after the completion of the parallel investigation or related adjudication, but pending such a petition, the Commission orders that complaint 2011E022 pending before this Commission be DISMISSED pursuant to a DEFERRAL.

March 20, 2014

By delegation:

A handwritten signature in black ink, appearing to read 'R. Hakim', is written over a horizontal line.

Ranjit Hakim
Executive Director of the Cook County
Commission on Human Rights