

COOK COUNTY COMMISSION ON HUMAN RIGHTS

69 West Washington, Suite 3040
Chicago, Illinois 60602

Kimberley LATOUR, Complainant)	Case No. 2011E011
)	
v.)	Entered: March 6, 2014
)	
OLDE SCHAUMBURG DENTAL LLC,)	
Respondent)	

ORDER

Complainant Kimberley LaTour (“LaTour”) brought this action on March 28, 2011 against her former employer, Respondent Olde Schaumburg Dental LLC (“OSD”), for unlawful employment discrimination on the basis of sex and parental status in violation of Section 42-35(b)(1) of the Cook County Code of Ordinances (“County Code”). *See* Compl., ¶¶ I-III. The Cook County Commission on Human Rights (“Commission”) has not yet made an evidence determination with respect to this matter, but on January 27, 2014, LaTour, through counsel, moved to remove this action from the Commission. By a responsive pleading of February 26, 2014, OSD concurred in LaTour’s request. With the parties in agreement, the Commission exercises its discretion to grant LaTour’s motion. This order serves as authorization for LaTour to proceed with her March 28, 2011 claims under the Cook County Human Rights Ordinance (“Human Rights Ordinance”) in a court of general jurisdiction within 90 days of the date of this order.

The Human Rights Ordinance provides, in relevant part:

Subsequent to a complaint being timely filed with the Commission, where such complaint alleges a violation(s) under Section 42-35, 42-36, 42-37, 42-38, 42-39 or 42-40 of this article, and prior to an evidence finding a complainant may request of the Commission to have the claims asserted in that complaint decided in a civil action in a court of general jurisdiction. The Commission in its discretion may approve the request and shall issue a written authorization to the complainant to proceed before such a court. Upon receipt of the written authorization the complainant shall give notice of his or her decision to proceed to court to the Commission and to all other complainants and respondents to whom the complaint relates. Under this paragraph a complainant has 90 days from the date the written authorization is received within which to bring suit. The Commission shall adopt rules specifying what the Commission may consider in determining whether to grant or deny a request to

proceed to court.

County Code, § 42-34(d)(2). The Commission's procedural rules provide a non-exhaustive list of factors for consideration in exercising the Commission's discretion to grant or deny a request for removal. This list includes:

- (A) Whether the nature of the allegations contained in the Complaint and the present posture of an ongoing investigation establish the likelihood that the investigation will exceed the 180-day directory time period for completion of an investigation;
- (B) Whether the investigation into the allegations contained in the Complaint is almost complete;
- (C) Whether the nature of the allegations contained in the Complaint indicates that the Complaint should be dismissed because of jurisdictional deficiencies;
- (D) Whether the purposes and goals of the Ordinance (*i.e.*, conciliation/settlement, cease-and-desist) will be effectuated by continuing before the Commission;
- (E) Whether the allegations contained in the Complaint present a case of first impression for the Commission;
- (F) Whether the Complaint filed relates to a systemic investigation by the Commission; and
- (G) The expertise of the Commission.

CCHRC Pro. R. 450.

In this case, the length of the Commission's investigation alone weighs heavily in favor of granting LaTour's request. Part of the *raison d'être* of local human rights commissions is to provide speedier dispositions to complaints of discrimination than those that might be afforded by a court of general jurisdiction. Yet LaTour filed her complaint with the Commission nearly three years ago and the investigation is not yet complete. The Commission does not have access to reliable statistics about the average length of time the Circuit Court of Cook County takes to resolve an employment discrimination dispute, but neither party suggests that a judicial proceeding would be less expeditious than the unusually long investigation at hand.

Perhaps this is unsurprising. Starting over in the Circuit Court of Cook County, at this point, is no great loss from LaTour's perspective. Even if the Commission were to complete its investigation within the next 180 days, a finding of substantial evidence of a violation of the Human Rights Ordinance would still require a complete hearing on the merits before the Commission could award LaTour the relief she has been seeking since 2011.

But starting over in court has the potential to put OSD in a much worse position. If LaTour's claim, in fact, lacks merit and if the Commission were to complete an investigation reaching that result in the next 180 days, then the case would be over. Those are two big ifs, but allowing LaTour to re-file her claim in the Circuit Court of Cook County risks prolonging this already aged matter for the respondent significantly. Counsel for OSD, however, is in a much better position to know what is best for OSD. OSD supports removal, and so the Commission will not delay resolution of this matter further.

Conclusion

For the foregoing reasons, the Commission orders that complaint 2011E011 be REMOVED. The Commission GRANTS LaTour this written AUTHORIZATION to proceed with her claim under Section 42-35(b)(1) of the County Code in a court of general jurisdiction within 90 days of the date of this order if she so chooses. Whether or not, LaTour exercises the authority granted to her by virtue of this order, the complaint pending before the Commission is hereby DISMISSED.

March 6, 2014

By delegation:



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