

COOK COUNTY COMMISSION ON HUMAN RIGHTS
69 West Washington Street, Suite 3040
Chicago, Illinois 60602

Joanne NUGENT, Complainant)	
)	
)	Case No. 2015PA003
v.)	
)	
JEWEL FOOD STORES, INC., Respondent)	Entered: May 20, 2015
)	

ORDER DENYING REQUEST FOR RECONSIDERATION

On February 23, 2015, Complainant Joanne Nugent (“Nugent”) filed the above-captioned complaint with the Cook County Commission on Human Rights (“Commission”), alleging that Respondent Jewel Food Stores, Inc. (“Jewel”) violated the Cook County Human Rights Ordinance (“Human Rights Ordinance”) when, on September 1, 2014, it refused to serve Nugent because she was accompanied by a service dog. *See* Compl. ¶ I(3)-(9). Jewel moved, pursuant to Rule 440.105, for the Commission to defer its investigation of this complaint in favor of an identical complaint that Nugent had filed three months earlier with the Illinois Department of Human Rights (“IDHR”). On April 14, 2015, the Commission granted Jewel’s motion and dismissed Complaint No. 2015PA003. *Nugent v. Jewel Food Stores, Inc.*, 2015PA003, *4 (Apr. 20, 2015) (dismissed in deference to IDHR’s investigation).

On May 6, 2015, Nugent requested reconsideration of that order of dismissal. The Commission now declines that invitation. Complaint No. 2015PA003 remains dismissed pursuant to the Commission’s rule governing deferrals.

The Commission’s procedural rules require that a request for reconsideration “state with specificity the reason(s) supporting the Request for Reconsideration, such as . . . the Commission’s misapprehension or misapplication of law.” CCHR Pro. R. 480.185. As the Commission explained in its April 14, 2015 order, the applicable law governing when the Commission will defer its investigation of cases to similar cases filed with the IDHR, the U.S. Equal Employment Opportunity Commission and other like human rights agencies is set out in CCHR Pro. R. 440.105. *See Nugent*, 2015PA003 at *1-2. Rule 440.105 states, in relevant part:

[A]ny party may file a motion . . . 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.

In requesting reconsideration of the Commission's April 14, 2015 order, Nugent does not offer an alternative application of Rule 440.105 to her case. She does not argue that the complaint that she filed with IDHR in November 2014 (*i.e.* IDHR Complaint No. 2015CP0938) is not substantially similar to the complaint that she filed with the Commission. She does not argue that both IDHR and the Commission investigating the same complaint would somehow conserve administrative resources. She does not argue that both IDHR and the Commission investigating the same complaint would result in a more timely investigation. She does not argue that both IDHR and the Commission investigating the same complaint would reduce Jewel's burden of providing duplicative responses. And she does not argue that the Commission's investigation of Complaint 2015PA003 has reached a stage at which it would be more efficient for the Commission to complete the case than defer to IDHR. Nugent questions the Commission's evaluation of its own backlog but does not go so far as to refute the specific statistics cited in the April 14, 2015 order measuring the current backlog. *See Nugent*, 2015PA003 at *3 (noting that the average case disposition on the Commission's docket remains above 365 days).

In the absence of relevant arguments or evidence that the Commission has misapplied Rule 440.105 in dismissing Complaint 2015PA003, Nugent's request for reconsideration alternates over the course of ten pages between threatening the Commission (by, for example, filing a complaint against the Commission with the Cook County Board of Ethics, State's Attorney's Office and the U.S. Department of Justice) and offering to cooperate with the Commission to make the investigation easier (by, for example, providing contact information for a Jewel store manager and Niles police officers who may be able to provide relevant evidence). Neither is a factor for consideration in the application of Rule 440.105. Nonetheless, the Commission encourages Nugent to offer this same level of cooperation to the IDHR to facilitate that agency's speedy investigation of the complaint that is substantially similar to the deferred

Complaint No. 2015PA003. Similarly, while the Commission is sympathetic to Nugent's representations of the distress that the Commission's April 14, 2015 order has caused her, she is a direct beneficiary of the Commission's application of Rule 440.105. The Commission's April 14, 2015 order preserves the Commission's resources to investigate claims that have not been filed with any other government agency. As it stands, that includes Nugent's own Complaint No. 2015PA002, which remains pending with this Commission for investigation.

For the foregoing reasons, the Commission DENIES Complainant's REQUEST FOR RECONSIDERATION of its Dismissal of Complaint No. 2015PA003 Pursuant to a Deferral. In accordance with CCHR Pro. R. 480.115, Nugent may seek administrative review of this decision by petitioning the Chancery Division of the Circuit Court of Cook County for a writ of certiorari.

May 20, 2015

By delegation:



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