



STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION

215 PROFESSIONAL BUILDING
1036 QUARRIER STREET
CHARLESTON, WEST VIRGINIA 25301

TELEPHONE: 304-348-2616

ARCH A. MOORE, JR.
Governor

August 16, 1985

Drema Hackworth
Box 387
Amherstdale, WV 25607

Melody A. Simpson and
Michael Chaney
P.O. Box 2031
Charleston, WV 25327

Man Appalachian Hospital
ATTN: Legal Dept.
600 McDonald Ave.
Man, WV 25635

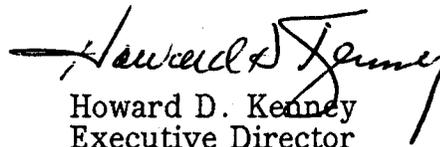
RE: Hackworth v. Man Appalachian
Hospital EH-302-85

Ladies and Gentlemen:

Herewith please find the Order of the WV Human Rights Commission in the case of Hackworth v. Man Appalachian Hospital.

Pursuant to Article 5, Section 4 of the WV Administrative Procedures Act [WV Code, Chapter 29A, Article 5, Section 4] any party adversely affected by this final Order may file a petition for judicial review in either the Circuit Court of Kanawha County, WV, or the Circuit Court of the County wherein the petitioner resides or does business, or with the judge of either in vacation, within thirty (30) days of receipt of this Order. If no appeal is filed by any party within thirty (30) days, the Order is deemed final.

Sincerely yours,


Howard D. Kenney
Executive Director

HDK/mst

Enclosure

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

Drema K. Hackworth,
Complainant,

v.

Docket No.: EH-302-85

Man Appalachian Regional Hospital
Respondent.

ORDER

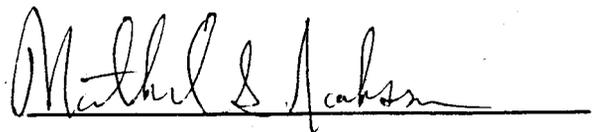
On the 13th day of August, 1985, the Commission reviewed Hearing Examiner James Gerl's Findings of Fact and Conclusions of Law. After consideration of the aforementioned, the Commission does hereby adopt the Findings of Fact and Conclusions of Law as its own.

It is hereby ORDERED that the Hearing Examiner's Findings of Fact and Conclusions of Law be attached hereto and made a part of this Order.

By this Order, a copy of which to be sent by certified mail, the parties are hereby notified that THEY HAVE TEN DAYS TO REQUEST A RECONSIDERATION OF THIS ORDER AND THAT THEY HAVE THE RIGHT TO JUDICIAL REVIEW.

Entered this 13th day of August, 1985.

RESPECTFULLY SUBMITTED,



CHAIR/VICE CHAIRMAN
WEST VIRGINIA HUMAN
RIGHT COMMISSION

STATE OF WEST VIRGINIA
HUMAN RIGHTS COMMISSION

RECEIVED

JUL 15 1985

W.V. HUMAN RIGHTS COMM.

DREMA K. HACKWORTH,

Complainant,

vs.

DOCKET NO. EH-302-85

MAN APPALACHIAN HOSPITAL,

Respondent.

PROPOSED ORDER AND DECISION

This matter is before me upon the motion to dismiss filed by the West Virginia Human Rights Commission. Neither Complainant nor Respondent has filed a response to the motion.

FINDINGS OF FACT

1. On or about May 14, 1985, the parties notified the Hearing Examiner that they had agreed to a settlement of the above-captioned matter. Based upon this representation, the scheduled hearing was cancelled.

2. The terms of the settlement agreement were that Complainant would withdraw her complaint when a certain letter was placed in Complainant's personnel file by Respondent and a letter already in her

file was to be marked with a notation that it was not a written disciplinary warning.

3. Respondent placed the letter described in Finding of Fact 2. in Complainant's personnel file and placed the appropriate notation on the letter already in Complainant's file.

4. Complainant never took steps to withdraw her complaint.

5. On June 24, 1985, Complainant received a letter from counsel for the Human Rights Commission stating that if she did not contact the Commission, the Commission would move that her complaint be dismissed.

6. Complainant has not contacted counsel for the Commission. Subsequent to agreeing to the settlement of this matter, Complainant has not cooperated with the efforts made by counsel for the Commission to finalize the settlement of this matter.

DISCUSSION

This matter has been resolved through a settlement. All of the parties hereto have agreed to the settlement. Counsel for Respondent reduced the settlement to writing and signed it. Complainant never signed the settlement. Because the controversy is now moot, the complaint should be dismissed, even in the absence of a signed settlement agreement. Emergency Rules Pertaining to Practice and Procedure Before the West Virginia Human Rights Commission, Rule 3.10(b)(5).

Counsel for the Commission sent a letter to Complainant requesting that she sign a withdrawal form and warning her that if she did not respond, the Human Rights Commission would move for dismissal of the complaint. Complainant has not contacted counsel for the Commission since agreeing to the settlement.

Complainant has failed to cooperate with the efforts of counsel for the Commission to finalize the settlement. Such failure to cooperate warrants dismissal of the complaint. Emergency Rules Pertaining to Practice and Procedure Before the West Virginia Human Rights Commission, Rule 3.10(b)(3).

PROPOSED ORDER

In view of the foregoing, the Hearing Examiner hereby recommends that the complaint in this matter be dismissed, with prejudice.



James Gerl
Hearing Examiner

ENTERED:

July 15, 1985

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has served
the foregoing **PROPOSED ORDER AND DECISION**
by placing true and correct copies thereof in the United States
Mail, postage prepaid, addressed to the following:

Roxanne Rogers
Human Rights Commission
1036 Quarrier Street
Charleston, WV 25301

Melody A. Simpson, &
Mike Chaney
Kay, Castro & Chaney
P.O. Box 2031
Charleston, WV 25327

on this 15th day of July, 1985.


James Gerl