

**EQUAL OPPORTUNITIES COMMISSION
CITY OF MADISON
210 MARTIN LUTHER KING, JR. BOULEVARD
MADISON, WISCONSIN**

<p>John Chancy 1223 E. Dayton Madison, WI 53704</p> <p style="text-align: center;">Complainant</p> <p style="text-align: center;">vs.</p> <p>Viking House Landmark Management 1667 Capitol Avenue Madison, WI 53705</p> <p style="text-align: center;">Respondent</p>	<p>DECISION AND FINAL ORDER ON COMPLAINANT'S MOTION TO REOPEN Case No. 1581</p>
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BACKGROUND

On January 7, 1993, the Complainant, John Chancy, filed a complaint of discrimination with the Madison Equal Opportunities Commission (Commission). The complaint contended that Chancy had been discriminated against in the provision of housing on the basis of his race and handicap by the Respondents, Viking House and Landmark Management. On May 11, 1993 the Commission dismissed the Complainant's complaint because it was unable to contact the Complainant. The rules of the Commission require a Complainant to inform the Commission of changes in address and in general to maintain contact with the Commission throughout the complaint process. The Notice of Dismissal provided that the dismissal could be appealed within twenty days of its mailing. The Commission did not receive any appeal during that twenty day period.

On June 8, 1994, the Complainant submitted a request that the Commission reopen his complaint. The Complainant alleged that he had not been informed of the requirement to keep the Commission informed of his whereabouts. Additionally, the Complainant asserted that because of the turmoil in his life and his handicap, he did not understand that his complaint might be dismissed.

On October 13, 1994, the Commission met to consider the request of the Complainant and the arguments of the Respondent. Participating in this deliberation were: Anderson, Fieber, Gardner, Greenberg, Verridan and Wilberg.

DECISION

When seeking to reopen a complaint that has been administratively dismissed because the Complainant has allegedly failed to comply with the Rules of the Commission, it is the burden of the Complainant to demonstrate that either he or she did not violate the rule as alleged or the violation of the rule occurred for excusable reasons. The Complainant, in this case, failed to meet this burden. He did not demonstrate that his failure to keep the Commission informed of his whereabouts so that the Commission could communicate with him resulted from any condition or circumstance beyond his control. While it may be true that the Complainant had been evicted from his apartment, he failed to show why that circumstance prevented him from contacting the Commission to inform it of that change. The Commission, on this record, is unable to find that the Complainant's alleged handicap(s), depression or learning disorder, kept him from understanding or meeting his responsibilities with respect to communicating with the Commission.

The Complainant also contended that the Commission failed to inform him of his obligation to keep in touch with the Commission or to provide the name of a contact person who would be able to reach the Complainant. Again the Complainant failed to meet his burden to demonstrate this. The materials provided by the Commission to all Complainants at the time of the filing of a complaint clearly spell out the obligations of the Complainant and the consequences of failing to meet these obligations. The Complainant presents no evidence from which the Commission could conclude that he did not receive these materials. Any failure on the part of the Complainant to understand the materials provided to him appears to be a problem for the Complainant. If he did not understand the materials at the time that they were given to him, he could and should have indicated that to the Commission staff member who took his complaint. He also could have asked the Investigator about any material that he did not understand. There is no indication that the Complainant made any effort to clarify his understanding of the materials provided him by the Commission including those materials setting forth his responsibility to keep in contact with the Commission. Other Complainants in circumstances similar to that of the Complainant have managed to meet their responsibilities to the Commission. The Complainant fails to show how his case or circumstance is different.

Under the circumstances of this record, the Commission will not reopen the complaint.

ORDER

The Complainant's Motion to Reopen the complaint in this matter is denied. The following Commissioners join in the decision of the Commission: Anderson, Fieber, Greenberg, Verridan and Wilberg. Gardner abstained.

Signed and dated this 1st day of November, 1994

Sincerely,

Booker Gardner
President