

THE COMMONWEALTH OF MASSACHUSETTS
COMMISSION AGAINST DISCRIMINATION

MCAD & LESLIE SANDIFORD,
Complainants

v.

DOCKET NO. 06-BPA-00211

ROADRUNNER TOWING COMPANY,
Respondent

Appearances:

James E. Neyman, Esquire, for Leslie Sandiford

Mark Andrade, pro se, for Respondent

DECISION OF THE FULL COMMISSION

Dismissal of Appeal

On July 11, 2007, Hearing Officer Judith E. Kaplan issued a decision in favor of Complainant in the above-entitled matter. Respondent was duly notified of the decision and its appeal rights. Respondent filed a Notice of Appeal on July 19, 2007. On August 6, 2007, Respondent filed a Motion for an Extension of 30 days to a File Petition for Review. Said Motion was Granted on August 6, 2007. To date, Respondent has not filed a Petition for Review.

The Commission's Rules of Procedure require that an aggrieved party must file a Notice of Appeal to the Full Commission, pursuant to 804 C.M.R. 1.23(1). The Commission's Rules of Procedure further require that an aggrieved party must file a Petition for Review within 30 days of receipt of the decision of the single commissioner or hearing officer, setting forth:

(a) facts showing the appellant to be aggrieved; (b) All matters alleged to have been erroneously decided; (c) all other matters on which the appellant relies and (d) the relief sought.

While Respondent filed a timely Notice of Appeal, it failed to file a Petition for Review.

Whereas Respondent has failed to perfect its appeal by filing a timely Petition for Review, the appeal is DISMISSED. Accordingly, the decision of the hearing officer is final and binding.

Attorneys Fees

On July 23, 2007, Complainant filed a Petition for Attorney's Fees. In his Petition, Complainant states that his counsel works predominantly on a contingency basis and therefore does not keep contemporaneous time records. Complainant nonetheless seeks attorneys fees of \$1,667.00 based on "a conservative estimate of the minimum number of hours reasonably spent on complainant's case multiplied by the hourly market rate."

The determination of whether a fee sought is reasonable is subject to the Commission's discretion. The Commission has adopted the lodestar methodology for fee computation. By this method, the Commission will first calculate the number of hours reasonably expended to litigate a claim and multiply that number by a reasonable hourly rate. Baker v. Winchester School Committee, 14 MDLR 1097 (1992).

Only those hours which are reasonably expended are subject to compensation under M.G.L.c.151B. "In determining whether hours are compensable, the Commission will consider detailed time records maintained by counsel for prevailing complainants and will review both the hours expended and the task involved." Id. at 1099. No time

records were submitted by Complainant in support of his motion for fees. In fact, Complainant states that he did not keep contemporaneous time records in this matter. Due to the utter lack of documentation of hours expended and tasks completed in furtherance of the claim before the MCAD, the Commission is unable to determine whether the fee sought is reasonable or appropriately charged to the tasks performed. Therefore, Complainant's Petition for Attorneys Fees is DENIED.

SO ORDERED, this 14th day of February , 2008.

MALCOLM S. MEDLEY,
Chairman

MARTIN S. EBEL,
Commissioner

SUNILA THOMAS-GEORGE,
Commissioner