



FILED:
December
12, 2024

STATE OF INDIANA
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

Kyle Alumbaugh,

Complainant,

V.

Madison Buy Sell Trade,

Respondent.

Administrative Cause No.: ICRC-2409-002283

Underlying Agency Action No.:

PAha24050395

FINAL ORDER ON WITHDRAWAL OF COMPLAINT

PROCEDURAL HISTORY & JURISDICTION

The Commission of the Indiana Civil Rights Commission ("ICRC") has subject matter jurisdiction over public accommodation discrimination complaints based on disability that are filed under the Indiana Civil Rights Law ("ICRL"). IND. CODE § 22-9-1-2; IND. CODE § 22-9-1-6. On September 16, 2024, the ICRC, after conducting a neutral investigation, made a probable cause finding on Kyle Alumbaugh's May 16, 2024, complaint that alleged Respondent violated the Indiana Civil Rights Law ("ICRL") by discriminating against Kyle Alumbaugh in the protected area of public accommodation on the basis of disability. When a finding of cause is made under the ICRL, pursuant to the Commission's June 19, 2020, Finding of Necessity, the Office of Administrative Law Proceedings ("OALP") shall appoint an Administrative Law Judge ("ALJ") to preside over the matter and to conduct a hearing. IND. CODE § 22-9-1-6; IND. CODE § 4-15-10.5-12; IND. CODE § 4-15-10.5-13.

ISSUE

Is Complainant's Withdrawal of Complaint ("Motion") effective in dismissing this matter?

FINDINGS OF FACT

1. The Motion was filed on December 12, 2024.
2. As represented in the Motion, the Parties have reached a settlement. As a result, Complainant requests that this matter be dismissed.
3. The Motion was served on all Parties before a Notice of Hearing was issued.
4. There is no evidence of fraud, coercion, duress, or any other reason not to grant the requested dismissal.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the Parties. IND. CODE § 22-9-1-2; IND. CODE § 22-9-1-3; IND. CODE § 22-9.5-5-5.
2. A Complainant can withdraw an ICRC complaint by filing a Notice of Withdrawal with the Commission. 910 IAC 1-2-6.
3. A Notice of Withdrawal is a written statement made by the Complainant in which the Complainant requests that the matter be closed. *Id.* The Notice of Withdrawal must be served on all Parties. *Id.*
4. If a hearing has been set, then the majority of the Commission must agree to the withdrawal before the withdrawal is effective in closing the matter. *Id.*
5. However, if a hearing has not been set, then the Notice of Withdrawal filed by a Complainant is immediately effective in closing the matter as of the date of filing. *Id.*
6. Complainant filed Complainant's Motion prior to the setting of a hearing in this matter, and Complainant's Motion complies with 910 IAC 1-2-6.
7. Accordingly, this matter is dismissed pursuant to IND. CODE § 4-21.5-3-27(a).

DECISION

Having duly considered the above, the undersigned Administrative Law Judge ("ALJ") for the Office of Administrative Law Proceedings ("OALP") hereby orders as follows:

1. Complainant's Motion is GRANTED.
2. Kyle Alumbaugh's May 16, 2024, Complaint is DISMISSED, with prejudice.
3. Either Party to a dispute filed under IC 22-9 may, not more than thirty (30) days after the date of receipt of this final appealable order, appeal to the court of appeals under the same terms, conditions, and standards that govern appeals in ordinary civil actions. IND. CODE § 22-9-8-1.

SO ORDERED: December 12, 2024



Hon. LaKesha Triggs, Administrative Law Judge
Indiana Office of Administrative Law Proceedings

Distribution List:

Complainant, Kyle Alumbaugh, served by US Mail at PO Box 724, Westport, IN 47283

ICRC Staff Attorney, Frederick Bremer, served by email at fbremer@icrc.in.gov

Respondent, Madison Buy Sell Trade, served by email at jjenner@wjennerlaw.net