

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

Tina Osuocha
380 Munn Rd
Madison WI 53713

Complainant

vs.

Badger Bowl
506 East Badger Rd
Madison WI 53713

Respondent

HEARING EXAMINER'S
DECISION AND ORDER ON
RESPONDENT'S MOTION TO DISMISS
FOR LACK OF JURISDICTION

CASE NO. 20143151

BACKGROUND

On September 15, 2014, the Complainant, Tina Osuocha, filed a complaint with the Madison Department of Civil Rights Equal Opportunities Division (EOD). The complaint alleged that the Respondent, Badger Bowl, discriminated against her on the bases of her sex and race when it caused or permitted her harassment and unequal treatment in a place of public accommodation or amusement. The Respondent denied the allegations of the complaint, but failed to fully participate in the investigation of the complaint.

On January 7, 2015, the Investigator/Conciliator issued an Initial Determination concluding that there was probable cause to believe that the Respondent discriminated against the Complainant on the bases of sex and race in the provision of a public place of accommodation or amusement. The parties took some time to attempt to resolve the allegations of the complaint through conciliation. Those efforts were ultimately unsuccessful and the matter was transferred to the Hearing Examiner for further proceedings.

On June 3, 2015, the Hearing Examiner issued a Notice of Pre-Hearing Conference. This Notice set the Pre-Hearing Conference for June 15, 2015. Some delay in setting the date for the Pre-Hearing Conference occurred when the Complainant indicated that she would be unavailable until sometime in June.

At the Pre-Hearing Conference, the Respondent appeared by a representative and by counsel. The Complainant appeared in person.

During the Pre-Hearing Conference, the Respondent indicated that it intended to file a Motion to Dismiss for lack of geographic jurisdiction. The Respondent asserted that the entirety of the Respondent's facility, except for a small portion of the parking lot, falls outside of the City of Madison in the Town of Madison.

Instead of going through the complete Pre-Hearing procedures and scheduling, the parties agreed that the Hearing Examiner would issue a briefing schedule to address the issue of geographic jurisdiction.

The Hearing Examiner, on June 17, 2015, issued a briefing schedule. The schedule gave the Respondent until June 26, 2015 to file a Motion to Dismiss along with supporting argument and documentation.

The Respondent filed a Motion and brief on June 26, 2015. The Complainant did not submit any material in opposition.

DECISION

In its motion, the Respondent recites the facts of which portions of the Respondent's facility fall within and without the City of Madison. Essentially, except for a small portion of the Respondent's parking lot, the Respondent's whole facility falls outside of the City of Madison and in the Town of Madison. As the Respondent correctly highlights in its brief, the Department is without jurisdiction over actions that occur outside of the geographic boundaries of the City of Madison. Rappe v. Soderholm Wholesale Foods, Inc., MEOC Case No. 21811 (Ex. Dec. 12/13/93), Hawkins v. Volkmann Railroad Builders, Inc., MEOC Case No. 22451 (Ex. Dec. 2/17/00). Since there is apparently no dispute that the Respondent's facilities lie outside of the geographic boundaries of the City of Madison, the Hearing Examiner is compelled to terminate the proceedings before the Department and order the matter transferred to the Wisconsin Department of Workforce Development Equal Rights division (ERD) pursuant to the work sharing agreement between the Department and ERD.

ORDER

The complaint before the EOD is hereby dismissed and this matter is ordered transferred to the Wisconsin Department of Workforce Development Equal Rights Division for further proceedings.

Signed and dated this 11th day of August, 2015.

EQUAL OPPORTUNITIES COMMISSION

Clifford E. Blackwell, III
Hearing Examiner

cc: Jennifer S Mirus