

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
16 CPS 01656

Otero Lee Ingram)
)
Petitioner,)
)
v.)
)
N.C. Crime Victims Comp Commission)
)
Respondent.)

**FINAL DECISION
ALLOWING SUMMARY JUDGMENT
FOR RESPONDENT**

THIS MATTER comes before the Honorable Donald W. Overby, Administrative Law Judge presiding, for consideration of Respondent's Motion for Summary Judgment filed with the Office of Administrative Hearings ("OAH") on May 4, 2016. A Request for Response to Motion was sent to Petitioner, to the address the OAH has on file for Petitioner, requesting that Petitioner respond on or before May 16, 2016 if Petitioner desired any objections to be considered before a ruling was entered. Petitioner did not file a response. Having considered Respondent's Motion and all matters of record appropriate for consideration, the Court finds as fact and concludes as a matter of law that there is no genuine issue of material fact and therefore summary judgment is appropriate.

At issue in this contested case is the Respondent's denial of Petitioner's Victim Compensation Application.

Petitioner filed a Petition for a Contested Case Hearing on February 10, 2016. On March 18, 2016 Respondent served Petitioner with its First Request for Admissions, First Set of Interrogatories, and First Request for Production of Documents. Pursuant to N.C.G.S. § 1A-1, Rule 36(a) and 26 NCAC 03 .0112, all matters for which an admission is requested are deemed admitted and conclusively established unless a written answer or objection is made within fifteen (15) days after service of the request.

When Petitioner failed to respond to the discovery requests, Respondent filed a Motion for Summary Judgment, Motion to Compel and/or Dismiss and Motion to Stay Proceedings on May 4, 2016. The undersigned issued an Order Compelling Discovery and Denying the Motion to Dismiss and Motion to Stay on May 5, 2016. The undersigned reserved ruling on the Motion for Summary Judgment until after Petitioner had the opportunity to respond. Petitioner was given until May 16, 2016 to respond to the discovery requests and the motion. To date, Petitioner has failed to respond to the motion or Respondent's discovery request.

Rule 56 of the North Carolina Rules of Civil Procedure provides that judgment shall be rendered if the pleadings, depositions, answers to interrogatories and admissions on file, together

with affidavits, if any, show that there is no genuine issue of material fact and that the party is entitled to judgment as a matter of law. Since Petitioner failed to respond to the Request for Admissions, all matters for which an admission is requested are deemed admitted and conclusively established, therefore there is no genuine issue of material fact.

It is therefore ORDERED that summary judgment for Respondent is **ALLOWED**, and this contested case is dismissed with prejudice.

NOTICE

This is a Final Decision issued under the authority of N.C. Gen. Stat. § 150B-34.

Under N.C. Gen. Stat. § 150B-45, any party wishing to appeal this Final Decision must file a Petition for Judicial Review in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, the county where the contested case which resulted in the Final Decision was filed. **The appealing party must file a Petition for Judicial Review within 30 days after being served with a written copy of this Final Decision.**

Under N.C. Gen. Stat. § 150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. N.C. Gen. Stat. § 150B-46 describes the contents of the Petition for Judicial Review, and requires service of the Petition for Judicial Review on all parties. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to ensure the timely filing of the record.

This the 9th day of June, 2016.

Donald W Overby
Administrative Law Judge