

CCASE:  
CYNTHIA RAY V. SOUTHERN OHIO COAL  
DDATE:  
19900928  
TTEXT:

~1910

Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)  
Office of Administrative Law Judges

CYNTHIA RAY, COMPLAINANT	DISCRIMINATION PROCEEDING
v.	Docket No. WEVA 90-40-D
SOUTHERN OHIO COAL COMPANY, RESPONDENT	MORG-CD 87-1 Martinka No. 1 Mine

ORDER OF DISMISSAL

On July 18, 1990, Respondent filed an Answer in the above captioned proceeding. In its Answer, Respondent made a Motion to Dismiss. In a Certificate of Service, attached to the Answer, Counsel for Respondent indicated that the Answer and Affirmative Defenses were served to Complainant on July 16, 1990. To date Complainant has not responded to the Motion to Dismiss.

On August 3, 1990, a Show Cause Order was issued as follows: "Complainant (Cynthia Ray) is ORDERED to file a reply to Respondent's Motion to Dismiss within 10 days of the date of this Order. Failure by Complainant to file such a reply shall result in this case being dismissed."

On August 28, 1990, Complainant called the Commission and spoke to the undersigned's secretary, and asked for a continuance. A telephone conference call was held on August 29, 1990, between Complainant, Counsel for Respondent, and the undersigned. The Complainant indicated she had received the Respondent's Motion to Dismiss, and was considering obtaining counsel. Complainant was allowed an extension until September 10, 1990, to file an Answer to the Motion to Dismiss. On September 11, 1990, Respondent filed a statement requesting an immediate ruling on its Motion. Neither Complainant, nor any Counsel on her behalf, filed a Response to the Motion to Dismiss.

Accordingly, inasmuch as no Reply has been filed by Complainant to either the Show Cause Order or Respondent's Motion to Dismiss, I find the Complainant has defaulted by not complying with the Order to Show Cause.

It is ORDERED that this case be DISMISSED.

Avram Weisberger  
Administrative Law Judge