

Office of Administrative Law Judges
UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C.

Respondentand

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 3475

Charging Party

Case No. DA-CA-90742

Mary Larson, Esquire

Shannon W. Rivers

For the General Counsel

Mary C. Merchant

For the Respondent

Dorothy Pleasant

For the Charging Party

Before: WILLIAM B. DEVANEY

Administrative Law Judge

DECISION

Statement of the Case

This case was set for hearing at 0900 in New Orleans, Louisiana, on October 13, 2000. Counsel for Respondent, President of the Charging Party, witnesses, Court Reporter and the undersigned were present prior to the scheduled time of the hearing. At about 0900, the Regional Attorney, Ms. Charlotte A. Dye, called the undersigned to report that one of the attorneys for General Counsel, Ms. Larson, had become ill and the other attorney for General Counsel, Ms. Rivers, had taken her to a hospital. The undersigned told the Regional Attorney to send Ms. Rivers to try the cases as soon as possible. The Regional Attorney moved for a continuance which was denied. The undersigned emphasized to the Regional Attorney that the hospital staff would take care of Ms. Larson; that Ms. Rivers could do nothing for her; and that it would be an unwarranted imposition on Respondent, Charging Party, the witnesses, the Court Reporter and the undersigned not to utilize the services of the other attorney, Ms. Rivers, who was present in New Orleans for the express purpose of trying these cases. It was agreed that the opening of the hearing would be delayed until noon. At about 11:30 a.m. the Regional Attorney called and steadfastly refused to send Ms. Rivers to the hearing and conceded that I would have to dismiss this case for want of prosecution. I went

on the record, recited the refusal of the Regional Attorney to use an available attorney to try the case, offered Charging Party the right to proceed without the General Counsel, which Ms. Pleasant, President of Local 3475, declined and, because General Counsel refused to prosecute, dismissed the complaint.

WILLIAM B. DEVANEY
Administrative Law Judge