IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

METRO BUSINESS ASSOCIATES, INC., et al.,

Plaintiffs,

v.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, et al.,

Defendants.

CIVIL ACTION NO. 81-0513-A

MEMORANDUM OPINION

MBA of Washington, D.C., Inc. (MBA) discharged Kay L. Sheldon from employment on May 29, 1980. Sheldon submitted Title VII discrimination charges against MBA to the Equal Employment Opportunity Commission (EEOC) on March 9, 1981. The EEOC then sent these charges to the Fairfax County (Va.) Human Rights Commission (FCHRC) on March 18, 1981. On the same day, the FCHRC waived processing of the charges and "terminated" its proceedings in the case. This waiver occurred 293 days after Sheldon's firing. On April 30, Sheldon refiled the charges with the FCHRC. The charges currently are pending before both commissions.

MBA brought this suit to obtain a declaratory judgment that the 300-day limitation period of 42 U.S.C. § 2000e-5(e) bars the filing of Sheldon's charges with the EEOC. In a county, such as Fairfax, with a local discrimination law, section 2000e-5(c) prevents an effective filing with the EEOC until the earlier of 60 days after commencement of local proceedings or the day upon which such proceedings are "terminated." See 42 U.S.C. § 2000e-5(c)(1976). MBA alleges that the FCHRC's waiver of its right to process the charges does not constitute a "termination" of local proceedings within the meaning of section 2000e-5(c). MBA contends that Sheldon therefore could not have properly filed charges with the EEOC until at least 60 days after April 30.

Thus, MBA concludes that the filing with the EEOC is time-barred.

The EEOC and Sheldon, the defendants in the declaratory judgment suit, each have moved to dismiss MBA's complaint. The defendants base their dismissal motions on two grounds: first, MBA has failed to establish that an article III case or controversy exists between the parties; and, second, section 2000e-5 does not bar Sheldon's filing of charges with the EEOC. The court will not deal with the second issue, because its resolution of the first one is dispositive.

MBA's suit is dismissed on the ground that no present controversy exists between the parties. The administrative actions of the EEOC do not confer any rights or impose any liabilities upon parties before it. See General Electric Co. v. Gilbert, 429 U.S. 125, 141 (1976); Emerson Electric Co. v. Schlesinger, 609 F.2d 898, 902 (8th Cir. 1979); EEOC v. Raymond Metal Products Co., 530 F.2d 590, 593 (4th Cir. 1976). The EEOC can enforce its determinations only by a voluntary conciliation agreement or after a trial de novo in a federal or state court. See 42 U.S.C. § 2000e-4(g),-5 (1976); McDonnell Douglas Corp. v. Green, 411 U.S. 792, 799 (1973); EEOC v. Raymond Metal Products Co., 530 F.2d 590, 593 (4th Cir. 1976). The EEOC's investigation of Sheldon's charges, therefore, does not create a present controversy between the parties.

At this time, the EEOC has not brought any charges against MBA in court. In addition, the EEOC has not subpoenaed any documents or other evidence from MBA. If the EEOC does bring a Title VII action in federal district court or does attempt to compel production of evidence, MBA will have a full opportunity to litigate the time-bar issue at that time. Thus, MBA's suit is not ripe for adjudication.

UNITED STATES DISTRICT JUDGE

DATE: ____________________