

STATE OF CONNECTICUT
Department of Labor
200 Folly Brook Boulevard
Wethersfield, CT 06109

COMPLAINANT:

Jan Duquette
32 Klondike Street
North Grosvenordale, CT 06255

EMPLOYER:

Kenyon Oil Company
221 Quinebaug Road
North Grosvenordale, CT 06255

Certified No.: 7004 1160 0007
5019 7534

Certified No.: 7004 1160 0007
5019 7541

Date Mailed: September 19, 2005

FINAL DECISION

Pursuant to Section 31-1-8 of the Regulations of Connecticut State Agencies, after reviewing the evidence, I issue my Final Decision in the above-referenced matter. I affirm in whole and incorporate the Proposed Decision of the Hearing Officer issued on August 30, 2005, a copy of which is attached hereto, as my Final Decision in this matter.



Shaun B. Cashman
Commissioner

Cc: Attorney Neale Belgrade
Office of Program Policy

Docket No. FM 2003-133

Date mailed: August 31, 2005

Complainant:

Employer:

Jan Duquette
32 Klondike Street
North Grosvenordale, CT 06255

Kenyon Oil Co. (now Drake Pet.)
221 Quinebaug Road
North Grosvenordale, CT 06255

CASE HISTORY

On June 2, 2004 the Division of Wage and Workplace Standards ruled the employer had not violated the complainant's Family and Medical Leave Act rights. The Commissioner found that the employer did not violate the complainant's rights under the Connecticut Family and Medical Leave Act.

The complainant filed a timely appeal from the Commissioner's determination. Hearing Officer Sherwin M. Nelson scheduled a hearing on the complainant's appeal for March 2, 2005, at 8:35 a.m.

APPEARANCES

Complainant did not attend

For the employer: Pauline Blais, human resources supervisor
Sandra Potter, retail accounting manager
Janice Burgess, supervisor retail department

FINDINGS OF FACTS

1. Hearing Officer Sherwin M. Nelson scheduled a hearing on the matter at issue for March 2, 2005, at 8:35 a.m. at the Hartford office of the Appeals Division.
2. The notices of hearing were mailed to both the complainant and the employer on February 18, 2005. Attorney Neale Belgrade, State Labor Department, Office of Program Policy also was mailed notice.
3. The notices to both the complainant and the employer were sent certified mail. The certified mail receipts (US Postal form 3811) were not returned to the Hearing Officer.
4. The employer did not attend the hearing with three witnesses; the claimant did not appear.

5. The Hearing Officer made several visits to the mail receipt area located in a centralized area of his work site over a period of one month but no communications of any kind from the claimant have ever been found.
6. The US Postal Service did not return the notice to the claimant as undeliverable or refused by addressee.
7. The last communication from the complainant to the State Labor Department appears to have been in mid-2004.


PROPOSED DECISION OF HEARING OFFICER

The record establishes that the complainant received notice of a hearing to be held on March 2, 2005, despite the absence of US Postal form 3811. The complainant has not contacted the State Labor Department since mid-2004 and it appears that she has no interest or desire to pursue the matter in controversy. The employer has remained actively involved in the progression of the case and appeared for the hearing on March 2, 2005, also despite the lack of US Postal form 3811.

The complainant has failed to meet her burden of proof to show that the employer violated her rights under the Family and Medical Leave Act. Accordingly, the Hearing Officer concludes that the Commissioner's decision is supported by evidence previously of record and is consistent with the applicable provisions of the Connecticut Family and Medical Leave Act.

RECOMMENDED DECISION

The Hearing Officer recommends that the decision of the Division of Wage and Workplace Standards be **affirmed** and that the complainant's appeal be **dismissed**.



Sherwin M. Nelson
Associate Appeals Referee

SMN/tw