



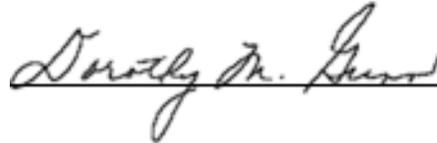
The former procedural rule addressing answers to complaints stated that a respondent could file an answer to a complaint within 30 days. The former rule also stated that material allegations would be deemed *denied* if not specifically admitted in the answer or if no answer is filed. 35 Ill. Adm. Code 103.122(d) (repealed Jan. 1, 2001). The complaint here was filed December 29, 1999, and any answer was due January 28, 2000 while the former procedural rules were in effect. Decicco's lack of an answer constituted a denial of the material allegations in the complaint. See People v. American Disposal Co., PCB 00-67 (Feb. 7, 2002).

Complainant has not filed any requests to admit or any amended complaint under the new procedural rules.

The Board finds that Decicco, by operation of the former procedural rule, denied the material allegations in the complaint. Since there are genuine issues of material fact in this matter, a finding of summary judgment would be precluded. The Board therefore rescinds its interim order of April 18, 2002, denies complainant's November 19, 2001 motion for summary judgment in its entirety, and directs the parties to hearing.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 16, 2002, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board