

ILLINOIS POLLUTION CONTROL BOARD

October 7, 2004

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 05-18
)	(IEPA No. 409-04-AC)
WILLIAM SHRUM,)	(Administrative Citation)
)	
Respondent.)	

ORDER OF THE BOARD (by J.P. Novak):

On August 26, 2004, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against William Shrum. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleged that on July 2, 2004 William Shrum violated Section 21(p)(1) and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (p)(7) (2002)). The Agency further alleges that William Shrum violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) litter and (2) deposition of general construction or demolition debris or clean construction or demolition debris at approximately 3 1/2 miles northwest of Tamaroa, Perry County.

As required, the Agency served the administrative citation on William Shrum within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2002); *see also* 35 Ill. Adm. Code 108.202(b). On September 29, 2004, William Shrum timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). William Shrum denies the allegations in the administrative citation. *See* 35 Ill. Adm. Code 108.206. The Board accepts the petition for hearing.

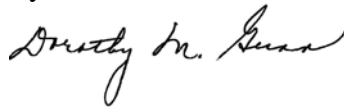
The Board directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. 35 Ill. Adm. Code 108.300; *see also* 415 ILCS 5/31.1(d)(2) (2002). By contesting the administrative citation, William Shrum may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2002); 35 Ill. Adm. Code 108.500. A schedule of the Board’s hearing costs is available at the Board’s offices and on the Board’s Web site at www.ipcb.state.il.us. 35 Ill. Adm. Code 504.

William Shrum may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If William Shrum chooses to withdraw his petition, he must do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If William Shrum withdraws his petition after the hearing starts, the Board will require William Shrum to pay the hearing costs of the Board and the Agency. *See id.* at 108.500(c).

The Agency has the burden of proof at hearing. *See* 415 ILCS 5/31.1(d)(2) (2002); 35 Ill. Adm. Code 108.400. If the Board finds that William Shrum violated (p)(1) and (p)(7), the Board will impose civil penalties on William Shrum. The civil penalty for violating Section 21(p) is \$1,500 for a first offense and \$3,000 for a second or subsequent offense. 415 ILCS 5/42(b)(4-5) (2002); 35 Ill. Adm. Code 108.500. However, if the Board finds that William Shrum “has shown that the violation resulted from uncontrollable circumstances, the Board shall adopt a final order which makes no finding of violation and which imposes no penalty.” 415 ILCS 5/31.1(d)(2) (2002); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 7, 2004, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board