IN THE CLAIMS COMMISSION OF THE STATE OF TENNESSEE
WESTERN DIVISION

FILED

FEB 09 2009

Tennessee Claims Commission
CLERK'S OFFICE

BONNIE HOWELL,

Claimant,

v.

CLAIM NO. 20-081-488
Regular Docket

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C/S=COMM
DCA
AG
ALJ
FEE PAID
NOTICE SENT
FILED

STATE OF TENNESSEE,

Defendant.

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS

This claim comes before the Claims Commission on the motion of the Defendant to dismiss this claim for lack of subject matter jurisdiction. Claimant has filed no opposing affidavits or pleadings.

Claimant, Bonnie Howell, filed a claim with the Division of Claims Administration on June 30, 2008. The claim was transferred to the Claims Commission in September 30, 2008.

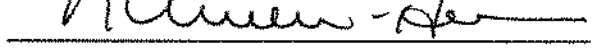
Claimant's claim alleges that she suffered a broken neck and other injuries when her automobile was struck from behind "along with three other cars behind me after the Southwest Human Resources van struck them." (Claimant's Claim, page 1)

Defendant filed a *Motion to Dismiss* and *Memorandum of Law in Support of Motion to Dismiss* on or about October 10, 2008. Claimant has

filed no response to Defendant's motion. Rule 0310-1-1-.01(5)(c) of The Rules of The Tennessee Claims Commission provides that "Each party opposing a motion shall serve and file a response no later than fifteen (15) days after service of the motion, except that in case of motions for summary judgment the time shall be thirty (30) days after service of the motion. **Failure to file a response shall indicate that there is no opposition to the motion.**"

Substantively, the State's *Motion to Dismiss* is well taken. Defendant correctly avers that the Claims Commission has no jurisdiction over actions alleging negligence by employees of Human Resource Agencies. *Johnson v. South Central Resource Agency,* 926 S.W.2d 951 (Tenn. Ct. App. 1996). Instead, Human Resource Agencies are governmental entities, subject to suit in circuit court under the Governmental Tort Liability Act (GTLA). § 29-20-103(3), Tenn. Code Ann.

IT IS THEREFORE ORDERED that this claim be **DISMISSED**.



NANCY C. MILLER-HERRON
COMMISSIONER

CERTIFICATE OF SERVICE

I certify that a true and exact copy of the foregoing Order has been mailed to:

Mr. James O. Lockard, Esq.
Lockard, Bingham & Kaplan
707 Adams Avenue
Memphis, Tennessee 38105

Ms. Martha A. Campbell, Esq.
Associate Deputy Attorney General
Civil Rights and Claims Division
P.O. Box 20207
Nashville, TN 37202-0207

This the 9 day of February, 2009.

Marsha Richeson

MARSHA RICHESON, CLERK
Tennessee Claims Commission