STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	)		
	)		
PAUL PARKS,	)		
	)		
	)		
Complainant,	)	CHARGE NO(S):	2006CA2665
	)	EEOC NO(S):	N/A
and	)	ALS NO(S):	S07-207
	)		
CITY OF MOLINE,	)		
	)		
	)		
Respondent.	)		

NOTICE

You are hereby notified that the Illinois Human Rights Commission has not received timely exceptions to the Recommended Order and Decision in the above named case. Accordingly, pursuant to Section 8A-103(A) and/or 8B-103(A) of the Illinois Human Rights Act and Section 5300.910 of the Commission's Procedural Rules, that Recommended Order and Decision has now become the Order and Decision of the Commission.

STATE OF ILLINOIS)
HUMAN RIGHTS COMMISSION) Entered this 17th day of March 2009

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	)	
	)	
PAUL PARKS,	)	
	)	**Charge No. 2006CA2665**
Complainant,	)	**EEOC No. N/A**
	)	**ALS No. S07-207**
and	)	
	)	
CITY OF MOLINE,	)	**Judge Reva S. Bauch**
	)	
Respondent.	)	

RECOMMENDED ORDER AND DECISION

This matter is brought pursuant to Respondent's Motion to Dismiss With Prejudice for Lack of Jurisdiction ("Motion") filed on March 12, 2008. Complainant had until March 26, 2008 to respond to this Motion. No response was filed. Accordingly, this matter is now ready for disposition.

The Illinois Department of Human Rights ("Department") is an additional statutory agency that has issued state actions in this matter. Therefore, the Department is an additional party of record.

FINDINGS OF FACT

The following facts were derived from the record file in this matter.

1. Complainant filed his perfected charge with the Department on March 27, 2006.

2. By letter dated March 29, 2007, the Department advised Complainant that the 365-day time period for it to complete its investigation had expired on March 28, 2007.

3. The March 29, 2007 letter stated that Complainant could file a complaint with the Commission between March 28, 2007 and April 26, 2007.

4. The March 29, 2007 letter stated that if Complainant filed his complaint outside the 365-day period, the Commission may dismiss the complaint.

5. On March 22, 2007, Complainant filed his Complaint with the Commission.

6. On March 12, 2008, Respondent filed this Motion.

7. On March 6, 2008, a status hearing took place via telephone. Respondent appeared through counsel. Complainant failed to appear.

8. On March 6, 2008, an Order was entered setting a briefing schedule for this Motion.

9. On March 6, 2008, the Commission served a copy of the March 6, 2008 Order on Complainant.

10. On April 22, 2008, a status hearing took place. Respondent appeared through counsel. Complainant appeared *pro se*.

11. On April 22, 2008, an Order was entered indicating that Complainant acknowledged receipt of the March 6, 2008 Order and that the Commission would issue a written decision on the pending Motion.

12. Complainant has failed to file a response to this Motion as required by the March 6, 2007 Order.

CONCLUSIONS OF LAW

1 Because Complainant failed to file its Complaint within the thirty day window provided by the Act, Complainant's Complainant is untimely and the Commission has no jurisdiction.

DISCUSSION

Section 7A-102(G)(1) of the Act requires the Department, within 365 days after a charge has been properly filed, to file a complaint with the Commission, or to order that no complaint be issued and dismiss the charge with prejudice. **775 ILCS 5/7A-102(G)(1)**. The 365-day period begins to run on the date a perfected or verified charge

is filed. **Banda and IDOC, IHRC, 11585, April 29, 2002**. If the Department does not complete its investigation before the expiration of the time period for filing a complaint, the Department "shall immediately cease its investigation and dismiss the charge of civil rights violations." **775 ILCS 5/7A-102(G)(3).** A complainant may file a complaint with the Commission on his or her own behalf during a thirty day window, beginning on the 366th day following the filing of the charge and ending on the 396th day following the filing of the charge. **775 ILCS 5/7A-102(G)(2)**. A complainant may not file a complaint outside of the thirty day time period granted by Section 7A-102(G)(2) of the Act. **Banda at 2.** If a complainant files a complaint either before or after the thirty day time period granted by the Act, the complaint is a nullity and the Commission has no jurisdiction over it. **Banda at 2.**

In this case, Complainant's perfected charge was filed on March 27, 2006. The Department calculated that, pursuant to the Act, Complainant could file a complaint with the Commission between March 28, 2007 and April 26, 2007. Complainant's Complaint, however, was filed with the Commission on March 22, 2007, prior to March 28, 2007 and outside of the thirty day window. Although Complainant received notices advising him of the appropriate thirty day period, he failed to file his Complaint in a timely manner. Because the filing of the Complaint was not timely, the Commission does not have jurisdiction over the Complaint and the Complaint must be dismissed with prejudice. **Banda at 2.**

In addition, Complainant has not filed any response to the Motion. The Commission has held that a dispositive motion should be granted where it appears on its face to be valid and the Complainant has failed to file a response. **Jones and Burlington Northern Railroad, 25 Ill. HRC Rep. 101 (1986).**

RECOMMENDATION

I recommend the Commission dismiss the Complaint, and the underlying charge, with prejudice.

HUMAN RIGHTS COMMISSION

BY:
REVA S. BAUCH
DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: October 2, 2008