

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF: )

JEREMY ANDERSON, )

Complainant, )

and )

TUESDAY MORNING, INC., )

Respondent. )

CHARGE NO(S): 2006CN1940

EEOC NO(S): N/A

ALS NO(S): 07-258

**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 9<sup>th</sup> day of April 2010

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N. KEITH CHAMBERS  
EXECUTIVE DIRECTOR

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

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Charge No. : 2006CN1940  
EEOC No.: N/A  
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Judge Reva S. Bauch

**RECOMMENDED ORDER AND DECISION**

This matter is before the Commission on Respondent's Motion to Dismiss Complainant's Complaint for Lack of Subject Matter Jurisdiction ("Motion"). Respondent alleges Complainant failed to file a timely Charge with the Department of Human Rights ("Department") within the required 180-day period following the alleged violation of the Illinois Human Rights Act ("Act"). Complainant was given the opportunity to file a response, but failed to do so. This matter is ready for a ruling.

The Department is an additional statutory agency that has issued state actions in this matter. Therefore, the Department is an additional party of record.

**Determination**

The Commission has no jurisdiction over this matter. Thus, the Motion should be granted.

### **Findings of Fact**

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

1. Complainant filed a Charge with the Department on March 27, 2006, alleging that in July 2005, Respondent failed to hire Complainant due to his arrest record.
2. Respondent filed its Motion on July 3, 2007.
3. On July 3, 2007, a copy of the Motion was served on Complainant, and a certificate of service evidencing the service was filed with the Commission.
4. On July 18, 2007, I entered an Order allowing Complainant to file a response to the Motion.
5. To date, Complainant has failed to file a response to the Motion.

### **Conclusions of Law**

1. Complainant is an individual claiming to be aggrieved by a violation of the Act, 775 ILCS 5/1-102 *et seq.*
2. The Commission has the authority to determine whether jurisdiction over the Complaint exists.
3. An aggrieved party must file a Charge of Discrimination within 180 days after the date that the alleged civil rights violation has been committed.
4. Compliance with the 180-day filing requirement is a "condition precedent" to a complainant's right to seek a remedy under the Act.
5. Because Complainant did not file his Complaint in a timely fashion (*i.e.*, within the 180 day filing period provided by the Act), the Commission does not have jurisdiction over the Complaint.

### **Discussion**

Respondent moves the Commission to dismiss the Complaint because the Complainant failed to file his Charge within the 180-day filing period in accordance with the Act. In particular, Complainant filed his Charge with the Department on March 27, 2006,

approximately 240 days after the alleged improper employment action in July 2005. Complainant concedes that he did not file the Complaint with the Commission until after the 180-day filing period. Complainant argues, however, that the Complaint is timely because the Department did not investigate the issue during the 365-day time period, as prescribed by Section 7A-102 (G) (1) of the Act, **775 ILCS 5/7A-102(G)(1)**.

Compliance with the 180-day filing requirement is a "condition precedent" to a complainant's right to seek a remedy under the Act. **Weatherly v. Illinois Human Rights Comm'n, 338 Ill App3d 433 (2003)**. The Charge of March 27, 2006 only provides the Commission with subject matter jurisdiction over allegations which occurred within the 180-day filing period. Thus, the Charge is untimely and the Commission has no jurisdiction over this matter.

In addition, Complainant has failed to file a 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**

Based on the foregoing, 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: June 23, 2008**

