

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)	
)	
LINDA PEARSON,)	
)	
)	
Complainant,)	CHARGE NO(S): 2005CA3965
)	EEOC NO(S): 21BA52626
and)	ALS NO(S): 07-350
)	
ILLINOIS BELL TELEPHONE CO.,)	
)	
)	
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 17 th day of March 2009

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

Respondent contends that the complaint should be dismissed with prejudice as the Commission is without jurisdiction due to Complainant's filing of her Charge of Discrimination (Charge) outside of the 180 day window of opportunity set forth in 775 ILCS 5/7A-102 which states:

"(1) Within 180 days after the date that a civil rights violation allegedly has been committed, a charge in writing under oath or affirmation may be filed with the Department by an aggrieved party or issued by the Department itself under the signature of the Director."

Respondent also contends that the Complaint should be dismissed as there are no genuine issues of material fact and Complainant is unable to establish a *prima facie* case of discrimination or retaliation.

FINDINGS OF FACT

1. The alleged incidents occurred between May 14, 2003 when Complainant filed Charge No. 2003CA3350 with the Department and December 23, 2004, when Complainant alleges she was discharged as a result of the filing of the aforementioned Charge.

2. On July 19, 2005, Complainant filed Charge No. 2005CA3965 with the Department, alleging a violation of the Illinois Human Rights Act (Act) based on retaliation.

3. On March 11, 2008, Respondent filed its pending motion.

4. On March 18, 2008, Administrative Law Judge Lindt gave Complainant until May 7, 2008 to respond to the pending motion.

5. On May 20, 2008, ALJ Lindt gave Complainant additional time, to June 13, 2008, within which to respond to the pending motion.

6. On June 27, 2008, Complainant filed a third request within which to respond to the pending motion, citing her inability to obtain counsel.

7. On July 15, 2008, Complainant's motion was denied.

CONCLUSIONS OF LAW

1. The Commission lacks jurisdiction to proceed on the instant Complaint because it was not timely filed pursuant to the statutory time frame set forth in Section 7A-102(1) of the Illinois Human Rights Act (775ILCS 5/7A-102(1)).
2. A summary decision in favor of Respondent is appropriate in this case.
3. This matter should be dismissed with prejudice.

DISCUSSION

Respondent filed a motion for summary decision. Complainant has failed to file any responsive pleading thereto despite being provided ample opportunity to do so.

Respondent's motion can be decided on the record in the file. A summary decision is analogous to a summary judgment in the Circuit Court. *Cano v. Village of Dolton*, 250 Ill. App. 3d 130, 620 N.E.2d 1200 (1st Dist. 1993). Such a motion should be granted when there is no genuine issue of material fact and the moving party is entitled to a recommendation in its favor as a matter of law. *Strunin v. Marshall Field & Co.*, IHRC, 536(L), March 3, 1983. The movant's right to summary decision must be clear and free from doubt. *Bennett v. Raag*, 103 Ill. App. 3d 321, 431 N.E.2d 48 (2nd Dist. 1982).

When these principles are applied to the record, Respondent's motion must be granted.

Respondent, in its motion, articulates a compelling reason to grant its motion. 775 ILCS 5/7A-102(1), as set forth above, is clear and unequivocal. Complainant has 180 days from the date of an alleged violation within which to file a charge with the Department. The facts are undisputed that Complainant bases her complaint on retaliatory discharge, claiming she was discharged by Respondent on December 23, 2004. Complainant, however, did not file a charge with the Department until July 19, 2005, a full 208 days after the alleged violation. Given Complainant's *pro se* status, all

efforts should be made to protect her rights. ALJ Lindt, appropriately, granted Complainant two extensions, allowing her 90 days within which to respond to the motion. Complainant most recently sought an additional extension stating that she has "tried without success to obtain an attorney on a contingent basis to no avail." To allow Complainant an additional extension of time would unduly delay the proceedings, particularly in light of the time previously provided Complainant to obtain counsel. Any additional time would cause unnecessary delay.

As a decision can be made based on the untimely filing of the Charge, I need not consider the issue of whether Complainant is able to establish a *prima facie* case.

RECOMMENDATION

Based upon the foregoing, it is recommended that Respondent's *Motion for Summary Decision* be granted and the Complaint and the underlying Charge be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY _____
GÉRTRUDE L. MCCARTHY
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: August 19, 2008