STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	)	
	)	
PRINCESS BECK,	)	
	)	
	)	
Complainant,	)	CHARGE NO(S): 2006CN3832
	)	EEOC NO(S): N/A
and	)	ALS NO(S): 07-468
	)	
BEST BUY,	)	
	)	
	)	
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 1st day of April 2011

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	)	
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PRINCESS BECK,	)	**Charge No.: 2006N3832**
	)	**EEOC No.: N/A**
Complainant,	)	**ALS No.: 07-468**
	)	
BEST BUY,	)	
	)	
Respondent.	)	**Judge Gertrude L. McCarthy**

RECOMMENDED ORDER AND DECISION

This matter comes before me pursuant to Respondent's *Motion for Summary Decision,* accompanied by a Memorandum of Law which includes affidavits, filed with the Commission on April 15, 2010. Complainant has not filed a response to said motion and the time for filing said response is past due. This matter, therefore, is ripe for decision.

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

Contentions of the Parties

Complainant, on her own behalf, filed a complaint alleging discrimination based on race and sexual orientation in violation of the Illinois Human Rights Act (Act).

Respondent, it its motion, argues that: (1) Complainant has failed to establish a *prima facie* case of discrimination based on race and sexual orientation; (2) Complainant's termination was due to legitimate, non-discriminatory reasons; and (3) Complainant's sexual orientation claim was never raised before the Commission.

Complainant has not filed a response. Therefore, this matter will be decided on the pleadings filed with the Commission in the above matter.

Findings of Fact

1. On June 26, 2007, Complainant filed a complaint with the Commission alleging discrimination based on race and sexual orientation.

2. On August 17, 2007, Respondent filed its *Verified Answer to Complaint.*

3. On April 15, 2010, Respondent filed its *Motion for Summary Decision.*

4. On April 15, 2010, Respondent filed a Memorandum of Law in support of its Motion with affidavits.

5. Complainant has failed to respond to the pending Motion in a timely manner.

Conclusions of Law

1. The Commission has jurisdiction to proceed on the instant Complaint.

2. A summary decision in favor of Respondent is appropriate in this case.

3. There are no genuine issues of material fact.

4. The matter should be dismissed with prejudice.

Discussion

Complainant alleges that she was discriminated against on the bases of her race and sexual orientation when she was discharged from her employment with Respondent. Respondent claims that the discharge resulted from Complainant's falsification of a time sheet and her "permitting a coworker to make a transaction using a third-party's credit card and sign using the third-party's name." (See Declaration of Ginger McKay attached to Respondent's Memorandum as Exhibit 2). Complainant acknowledged that "she was responsible for her employee number once she signs the register" and further admitted that she "failed to punch in or out. . . . " (See Declaration of Ginger McKay attached hereto as Exhbiti 1).

A summary decision is analogous to a summary judgment in Circuit Court. *Cano v. Village of Dolton,* 250 Ill.App.3d 130, 138, 620 N.E.2d 1200. 1206 (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 affidavits should be strictly construed, and those of the opponent should be liberally construed. *Kowalski v. Voris,* 76 Ill.App.3d 453, 456, 395 N.E.2d 6, 9 (1st Dist. 1979). 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.

When facts contained in an affidavit are not contradicted by a counter-affidavit, those facts are deemed to be admitted and must be taken as true. *Purtill v. Hess,* 111 Ill.2d 229, 489 N.E.2d 867 (1986). See also *Cano v. Village of Dolton, Id.*

Respondent's reasons for discharging Complainant, which are supported by affidavits, are that Complainant falsified a time sheet and improperly used a third-party credit card. Ginger Mckay had a meeting with Complainant regarding these issues. When confronted with this information Complainant's response was that the issues were "petty" and "bullshit." (See Declaration of Ginger McKay attached as Exhibit 2).

In this instance, due to Complainant's failure to file a counter-affidavit, I have no choice but to grant Respondent's motion. Complainant's failure to file a counter-affidavit means that there is no genuine issue of material fact. *Cano, Id. See also, Rotzoll v. Overhead Door Corp.,* 289 Ill.App.3d 410 (1997).

RECOMMENDATION

Based upon the foregoing, there are no genuine issues of material fact and Respondent is entitled to a recommended order in its favor as a matter of law.

Therefore, it is recommended that Respondent's *Motion for Summary Decision* be

granted and that the complaint and the underlying charge in this matter be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY:_____

GERTRUDE L. MCCARTHY
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: June 14, 2010