

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF: )

WOJCEICH CZARNIECKI, )

Complainant, )

and )

CITY OF CHICAGO POLICE )  
DEPARTMENT, )

Respondent. )

CHARGE NO(S): 2008CF0057

EEOC NO(S): 21BA72112

ALS NO(S): 08-0330

**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 23<sup>rd</sup> day of August 2010

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N. KEITH CHAMBERS  
EXECUTIVE DIRECTOR

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

**IN THE MATTER OF:**

**WOJCEICH CZARNIECKI,**

**Complainant,**

**and**

**CITY OF CHICAGO,  
POLICE DEPARTMENT,**

**Respondent.**

**Charge No. 2008CF0057  
EEOC No. 21BA72112  
ALS No. 08-0330**

**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 Jurisdiction ("Motion"). The Illinois Department of Human Rights ("Department") filed a timely response. Albeit late, Complainant eventually filed his response. Thereafter, pursuant to my order, Complainant filed a supplemental response to "explain whether the signature on the extension form is Complainant's." Also pursuant to my order, the Department filed its reply to address issues raised in Complainant's filings.

From reviewing the briefs and attached exhibits, it was clear that there was a disputed fact as to whether or not Complainant signed the 300-day extension of time form. To rule on the Motion, an evidentiary hearing needed to take place on the issue of whether Complainant had signed the Department's extension of time form. Subsequent to the evidentiary hearing, I ordered the parties to each submit evidentiary hearing briefs. Respondent submitted its brief; Complainant failed to submit his brief. Respondent filed a short reply brief. This matter is now ready for disposition.

The 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 or determined from credibility determinations at the evidentiary hearing. Facts not stated herein are not deemed material to the pending Motion.

1. On July 12, 2007, Complainant filed a charge with the Department.
2. On July 12, 2007, Complainant signed a 300-day extension of time to continue the Department's investigation.
3. On July 31, 2007, Respondent signed a 300-day extension of time to continue the Department's investigation.
4. The Department had until May 7, 2009, to take action on the charge.
5. On July 25, 2008, Complainant filed the instant complaint with the Commission.
6. This Motion was filed on September 22, 2008 with the Commission.
7. The Commission had a status hearing on October 9, 2008. Respondent appeared. Complainant failed to appear.
8. On October 29, 2008, the Department filed a response to the Motion.
9. At the January 21, 2009 status hearing, Complainant moved for leave to file *instanter* his motion to file his late response, which was granted.
10. At the January 21, 2009 status hearing, Complainant was ordered to file a supplemental response to "explain whether the signature on the extension form is Complainant's."
11. Complainant filed his supplemental response, but failed to properly serve it on the Respondent.
12. On March 5, 2009, Respondent and the Department were granted additional time to file replies to Complainant's supplemental response.
13. The Department filed its reply on April 9, 2009; Respondent elected not to file a reply.

14. On or about April 9, 2009, the Department issued a determination regarding Complainant's charge.
15. Complainant filed a request for review that is currently pending before the Department.
16. On May 7, 2009, I entered an order setting an evidentiary hearing on the limited issue "of whether or not Complainant signed the 300-day extension of time form."
17. On June 18, 2009, an evidentiary hearing was held before me.
18. At the evidentiary hearing, Complainant, Respondent and the Department were represented by counsel.
19. The following people testified: Complainant, Peter Palka, and Tadeusz Palka.
20. The parties stipulated that the testimony of the Department's Intake Representative, Hector Sanchez, taken a few hours earlier in the companion case of **Palka and City of Chicago, Chicago Police Department, IHRC, ALS No. 08-0331**, on the same issue related to the signature on the Department's extension form would be treated as an evidentiary deposition.
21. Complainant's testimony was not entirely credible.
22. Investigator Sanchez's testimony was more credible than Complainant's testimony.

#### **Conclusions of Law**

1. Complainant is an individual claiming to be aggrieved by a violation of the Illinois Human Rights Act, ("Act"), **775 ILCS 5/1-102 et seq.**
2. The Commission has the authority to determine whether jurisdiction over the Complaint exists.
3. Section 7A-102(G)(1) of the Act provides that after a charge has been filed, within 365 days thereof or within any extension of that period agreed to in writing by the parties, the Department has exclusive authority over the matter. **775 ILCS 7A-102(G)(1).**
4. The Department's time period begins to run on the day a perfected, or verified, charge is filed.

5. Section 7A-102(G)(2) of the Act provides that an aggrieved party may individually file a complaint with the Commission within a 30-day filing period following the Department's exclusive time period. **775 ILCS 102(G)(2)**.
6. An aggrieved party may not file a complaint outside the 30-day time period provided by 7A-102(G)(2) of the Act.
7. If an aggrieved party files a complaint either before or after the 30-day period granted by 7A-102(G)(2), that complaint is a nullity and the Commission has no jurisdiction over it.
8. The Complaint is not timely because Complainant filed it while the charge was still under investigation at the Department.

### **Discussion**

Respondent requests that the Commission dismiss the complaint because the Complainant filed his complaint while the charge was still under investigation at the Department and because no events had occurred ceasing the Department's jurisdiction.

Pursuant to Section 7A-102(G)(1) of the Act, the Department has jurisdiction over a charge from its filing with the Department until the expiration of 365 days plus any agreed extensions, during which time the Department may dismiss the charge or file a complaint with the Commission. Pursuant to Section 7A-102(G)(2) of the Act, Complainant has a 30-day window to file a complaint with the Commission after the expiration of 365 days plus any agreed extensions after the filing of the charge with the Department.

If the Complainant signed the extension form, the Motion must be granted. The evidentiary hearing before me was to allow me to determine if Complainant signed that form. Most importantly, at the evidentiary hearing, Complainant admitted the signature on the extension form is his signature. (Tr. at 14). Although Complainant tried to explain away the fact that he admitted under oath that the signature is his, I find that his testimony regarding the same was not credible. Rather, his testimony as to why it was his signature, but could not be

his signature is nonsensical. In addition, Complainant appeared to have limited recall of the details surrounding the entire intake process and events.

Intake Coordinator Sanchez's testimony was credible and supports a finding that Complainant signed the extension form. The testimony indicated that Mr. Sanchez had no pressure to force Complainant to sign the extension form. Mr. Sanchez had no interest in the investigation of a charge, including the amount of time it takes to investigate a charge. (Tr. at 100). Mr. Sanchez's duties are solely related to the filing of a complaint; intake coordinators do not investigate charges. (Tr. at 87). Mr. Sanchez recalled the intake of Complainant. (Tr. at 110-111). Mr. Sanchez testified that Complainant had agreed to mediation. (Tr. at 114). Mr. Sanchez also testified that it is his regular practice to offer extensions to complainants who agree to mediation. (Tr. at 89).

Finally, several examples of Complainant's signatures were admitted into evidence, including the signatures verified by Complainant as his own on certain employment documents maintained by Respondent. The signature on the extension form bore a striking similarity to the documents Complainant admitted signing.

Accordingly, I find that Complainant signed the extension form. Since Complainant filed this instant complaint before the expiration of the 365-days plus the 300-day extension, his Complaint was premature and untimely. The complaint should be dismissed, but without prejudice, because the matter is still pending before the Department and there is a possibility that another complaint could be filed. Only the complaint, and not the underlying charge, should be dismissed.

**Recommendation**

I recommend that the Commission dismiss the Complaint, without prejudice.

**HUMAN RIGHTS COMMISSION**

BY: \_\_\_\_\_  
**REVA S. BAUCH**  
**DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE**  
**ADMINISTRATIVE LAW DIVISION**

**ENTERED: OCTOBER 1, 2009**