STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	)		
	)		
MARTA DOMINGUEZ,	)		
	)		
	)		
Complainant,	)	CHARGE NO(S):	2007CF1217
	)	EEOC NO(S):	N/A
and	)	ALS NO(S):	08-0414
	)		
UNITED FEATHER & DOWN, INC.,	)		
	)		
	)		
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:	)	
	)	
MARTA DOMINGUEZ,	)	
	)	**Charge No. 2007CF1217**
Complainant,	)	**EEOC No. N/A**
	)	**ALS No. 08-0414**
and	)	
	)	
UNITED FEATHER & DOWN, INC.,	)	**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"). Complainant had until December 18, 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 her perfected charge with the Department on October 31, 2006, alleging Respondent national origin discrimination and retaliation.

2. On January 2, 2007, the parties agreed to a 300-day extension for the Department to investigate the Charge.

3. The time period for the Department to investigate the Charge expired on August 27, 2008.

4. Complainant had thirty days, from August 27, 2008 through September 25, 2008, to file a complaint with the Commission.

5. On September 26, 2008, Complainant filed a Complaint with the Commission, one day after the thirty day deadline.

6. On October 24, 2008, Respondent filed this Motion.

7. On December 4, 2008, an Order was entered setting a briefing schedule for this Motion.

8. On December 5, 2008, Respondent filed a Proof of Service with the Commission attesting that it served a copy of the December 4, 2008 Order on Complainant.

9. Complainant has failed to file a response to this Motion as required by the Commission's December 4, 2008 Order.

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. Prior to the 2007 amendment to the Act, Section 7A-102(G)(2) provided that between 365 and 395 days after the charge is filed, or such longer period agreed to in writing by all parties, the aggrieved party may individually file a complaint with the Commission within a 30-day filing period.

4. Since Complainant filed her Charge with the Department on October 31, 2006, the thirty day window provision (as opposed to the new 90 day window) is applicable in this case.

5. 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.

6. The Complaint is not timely because Complainant filed it after the 30-day time period had elapsed.

7. Because Complainant did not file his Complaint in a timely fashion, within the 30-day period provided by 7A-102(G)(2) of the Act, the Commission does not have jurisdiction over the Complaint.

Discussion

Respondent requests the Commission dismiss the Complaint because the Complainant failed to file his Complaint within the 30-day window in accordance with 775 ILCS 5/7A-102(G)(2).

The Commission has considered numerous cases in which aggrieved parties have filed their own complaints outside the 30-day period. Whether those parties have filed their complaints after the period has begun or before the period has begun, the Commission has found the attempted filings to be jurisdictionally deficient. **David v. Human Rights Com'n**, 286 Ill App3d 508 (1997); *see also* **Heeter and Bd. of Ed. of Riverdale Community School Dist. 110,** IHRC, Dec. 23, 1994; **Brumzick and Intern'l Paper Co.,** IHRC, 5514(s), June 24, 1992.

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 that 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 DIVISION

ENTERED: JANUARY 8, 2009