STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST:	)	
FOR REVIEW BY:	)	CHARGE NO.: 2009CH0462
	)	EEOC NO.: N/A
JULIEANNA BAVA-REYES,	)	HUD NO.: 05-08-1620-8
	)	ALS NO.: 08-0425
Complainant.	)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners David Chang, Marylee V. Freeman, and Rozanne Ronen presiding, upon the Complainant's Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Department") of Charge No. 2009CH0462, Julieanna Bava-Reyes, Complainant, and Hartford Court II Condominium Association, Respondent; and the Commission having reviewed *de novo* the Department's investigation file, including the Investigation Report and the Complainant's Request and supporting materials, and the Department's response to the Complainant's Request; and the Commission being fully advised of the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Department's dismissal of the Complainant's charge is **SUSTAINED** on the following ground:

FAILURE TO PROCEED

In support of which determination the Commission states the following findings of fact and reasons:

1. The Complainant filed an unperfected charge of housing discrimination with the Department on August 6, 2008, alleging that the Respondent subjected her to discriminatory terms, conditions, privileges, or services and facilities because of her ancestry, Hispanic, in violation of Section 3-102(B) of the Illinois Human Rights Act (the "Act").

2. After several unsuccessful attempts to contact the Complainant so that she could perfect her charge, the Department dismissed the charge for failure to proceed on September 29, 2008. The Complainant thereafter filed a timely request for review on October 6, 2008.

3. The undisputed evidence in the investigation file shows that after the Complainant filed her charge, the Department made five attempts to contact the Complainant, twice by telephone and three times via mail. Specifically, on August 20, 2008, the Department telephoned the Complainant; when no one answered the telephone, the Department left a voicemail message asking the Complainant to call the Department regarding her charge. Also, on August 20, 2008, the Department mailed a letter and the unperfected charge to the Complainant's residence, via regular mail, which also asked her to review and sign the charge and return it to the Department as soon as possible.

4. On September 9, 2008, after the Complainant failed to contact or return the signed charge to the Department, the Department once more telephoned the Complainant. Again, when no one answered the telephone, a voicemail message was left for the Complainant requesting that she contact the Department. Also on September 9, 2008, the Department mailed two letters to the Complainant's residence, one via regular mail and one via certified mail, requesting that she contact the Department immediately about her charge.

5. The September 9, 2008 letters also advised the Complainant that if she did not contact the Department within 10 days from receipt of the letters, a Department investigator would recommend the dismissal of her charge for failure to proceed.

6. Finally, on September 29, 2009, after receiving no contact from the Complainant regarding her charge, the Department dismissed the Complainant's charge for failure to proceed.

7. In her Request, the Complainant apologizes for not contacting the Department and asserts that she left town due to the death of a relative. She also states that her cell phone number was not called and that her work phone had an "out of office" message on it. The Complainant does not deny that the letters were sent to her current residence. She states that she did not receive them until after she returned from out of town.

8. The Commission's review of the Department's investigation file leads it to conclude that the Department properly dismissed the Complainant's unperfected charge of discrimination for failure to proceed because the Complainant was aware of her duty to advise the Department of any prolonged absences from her current residence, but she failed to do so.

9. While the Commission does not doubt the sincerity of the Complainant's assertions, nonetheless, once the Complainant filed a charge with the Department and initiated proceedings, the Complainant had an affirmative duty to cooperate with the Department's investigation, which includes promptly advising the Department if she will be away from her current address for a prolonged period of time:

> *A complainant must promptly provide the Department with a notice of any change in address or telephone number or of any prolonged absence from the current address so that he or she can be located. A complainant must cooperate with the Department, provide necessary information and be available for interviews and conferences upon reasonable notice or request by the Department. If a complainant cannot be located or does not respond to reasonable requests by the Department, the Department may dismiss the charge pursuant to Section 2520.560 of this Part.*
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> **56 Ill. Adm. Code 2520.430(c)**

10. In this case, a total of 54 days, or nearly two months, passed between the time that the Complainant filed her charge and the time the Department issued the Notice of Dismissal. The Complainant offered no reason in her Request for why she could not have contacted the Department to advise them that she would be away from her residence for such a prolonged period of time.

11. The Commission finds that the Department made reasonable attempts to contact the Complainant over this almost two-month period of time, having twice left her telephone voicemail messages, and having sent three (3) letters and notices to her current residence.

12. Further, there is no evidence in the record to demonstrate that the Department could have or should have known that the Complainant was not receiving any of these messages or these letters because, as stated before, the Complainant failed to alert the Department that she was going to be away from her current residence for a prolonged period of time.

13. Accordingly, it is the Commission's decision that the Complainant has not presented any evidence to show that the Department's dismissal of her charge was not in accordance with the Act. The Complainant's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Complainant's charge is hereby **SUSTAINED.**

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and the Respondent Hartford Court II Condominium Association, as appellees, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS)
)
HUMAN RIGHTS COMMISSION)

Entered this 14th day of January 2009.

Commissioner David Chang

Commissioner Marylee V. Freeman

Commissioner Rozanne Ronen