STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST:	)	
FOR REVIEW BY:	)	CHARGE NO.: 2008CA3472
	)	EEOC NO.: 21BA82198
FERNANDO J. SALAZAR,	)	HUD NO.: N/A
	)	ALS NO.: 09-0166
Complainant.	)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners David Chang, Marylee V. Freeman, and Yonnie Stroger presiding, upon Complainant's Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Department") of Charge No. 2008CA3472, Fernando J. Salazar, Complainant, and Illinois Department of Human Services, Respondent; and the Commission having reviewed *de novo* the Department's investigation file, including the Investigation Report and the Complainant's Request, 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. On June 4, 2008, the Complainant filed a charge of discrimination with the Department, alleging that the Respondent subjected him to unlawful discrimination, in violation of § 2-102(A) of the Illinois Human Rights Act ("Act"). On March 31, 2009, the Department dismissed the Complainant's charge for failure to proceed with the Department's investigation in that the Complainant failed to attend the fact finding conference and that the Complainant did not provide good cause for his failure to attend. On April 11, 2009, the Complainant filed a timely request for review.

2. On January 28, 2009, the Department investigator called the Respondent and the Complainant and both parties agreed to attend a fact finding conference scheduled for February 18, 2009 at 9:00 a.m. On January 29, 2009, the Department's investigator mailed a "Notice of Fact Finding Conference" (the "Notice") to the Complainant and the Respondent. The Notice informed the Complainant and the Respondent that a fact finding conference was scheduled for February 18, 2009 at 9:00

a.m. The Notice also stated that the Complainant's failure to attend the conference may result in dismissal of his charge.

3. On February 18, 2009 at 8:49 a.m., the Complainant left a voicemail message with the Department staff requesting that the Department reschedule the fact finding conference.

4. On February 18, 2009 at 9:00 a.m., the fact finding conference was held. The Respondent attended the conference. The Complainant did not attend the conference.

5. On February 18, 2009, the Department staff mailed a letter to the Complainant requesting a documented explanation for the Complainant's failure to attend the fact finding conference. The letter also advised the Complainant that he must provide a satisfactory explanation for his failure to attend the fact finding conference within thirty days or his charge could be dismissed.

6. Between February 18, 2009 and March 31, 2009, the Complainant submitted no written response or documentation to the Department for his failure to attend the fact finding conference. Thus, the Department determined that the Complainant failed to establish good cause for his failure to attend the fact finding conference and dismissed his charge for failure to proceed with the Department's investigation. On March 31, 2009, the Department issued a Notice of Dismissal to the Complainant.

7. In his Request, the Complainant contends that he contacted his investigator on the date of the fact finding conference to inform her that he could not attend because he was ill with the flu. The Complainant believed that an investigation would be done and the findings would be mailed to him. The Complainant argues that the dismissal is wrong because he contacted his investigator and informed her why he could not attend.

8. The Commission's review of the file leads it to conclude that the Department properly dismissed the Complainant's charge because the Complainant did not provide any supporting documentation which showed that he had good cause for his failure to attend the fact finding conference. The Act states that any party's failure to attend the fact finding conference without good cause shall result in dismissal or default. *See* 775 ILCS 5/7A-102(c)(4) (2008). Here, the Complainant, despite the Department's request for a documented explanation, has not shown good cause nor has he demonstrated a willingness to proceed with the Department's investigation. He provided no response to the Department's February 18, 2009 request. The file indicates that the Complainant received notice of the fact finding conference and that the Department afforded the Complainant an opportunity to present a substantiated good cause explanation for his failure to attend the fact finding conference. Further, the Complainant attached no documentation to his Request.

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

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of the 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 Illinois Department of Human Services, as appellees, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS	)	
	)	**Entered this 8th of July 2009.**
HUMAN RIGHTS COMMISSION	)	

Commissioner David Chang

Commissioner Marylee V. Freeman

Commissioner Yonnie Stroger