

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: 2009CF0637
	)	EEOC NO.: 21BA83021
<b>CARLOS LEDEZMA</b>	)	ALS NO.: 10-0190
	)	
Petitioner.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Marti Baricevic, Robert S. Enriquez, and Gregory Simoncini presiding, upon Carlos Ledezma’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Department of Human Rights (“Respondent”)<sup>[1]</sup> of Charge No. 2009CF0637; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, **WHEREFORE**, it is hereby **ORDERED** that the Respondent’s dismissal of the Petitioner’s charge is **SUSTAINED** on the following ground:

**PETITIONER FILED A COMPLAINT WITH THE ILLINOIS HUMAN RIGHTS COMMISSION**

In support of which determination the Commission states the following:

1. The Petitioner filed a charge of discrimination with the Respondent on September 4, 2008. The Petitioner alleged Thermoflex Corporation (“Employer”) unlawfully discharged him because of his national origin, Mexico, in violation of § 2-102(A) of the Illinois Human Rights Act (“Act”). The Respondent had 365 days to complete its investigation of the charge.
2. The Respondent’s 365-day time period expired on September 8, 2009. The Petitioner thereafter had 90 days (from September 9, 2009 until December 17, 2009) to file a complaint of civil rights violation (“Complaint”) either with the Commission or with the circuit court. Pursuant to § 7A-102(G)(2) of the Act, the Petitioner was required to serve the Respondent with a copy of the Complaint.

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<sup>[1]</sup> In a Request for Review Proceeding, the Illinois Department of Human Rights is the “Respondent.” The party to the underlying charge who is requesting review of the Department’s action shall be referred to as the “Petitioner.”

3. The Petitioner filed a Complaint with the Commission on September 17, 2009. The Petitioner did not serve the Respondent with a copy of the Complaint.
4. On February 22, 2010, the Respondent dismissed the Petitioner's charge for Expiration of Time Period to File a Complaint with the Commission.
5. On March 17, 2010, the Petitioner filed this timely Request. The Petitioner does not address the Respondent's statutory basis for dismissing the charge.
6. In its Response, the Respondent asks the Commission to sustain its dismissal of the Petitioner's charge. The Respondent argues that it was required to dismiss the Petitioner's charge pursuant to § 7A-102(G)(3) of the Act, which provides in relevant part:

*If an aggrieved party files a complaint with the Human Rights Commission or commences a civil action in circuit pursuant to paragraph (2) of the subsection, or if the time period for filing a complaint has expired, the Department shall immediately cease its investigation and dismiss the charge of civil rights violation*

**775 ILCS § 5/7A-102(G)(3)**

**Conclusion**

The Commission concludes the Respondent properly dismissed the Petitioner's charge pursuant to 775 ILCS § 5/7A-102(G)(3).

Pursuant to § 7A-102(G)(3) the Respondent was obligated to cease its investigation of the Petitioner's charge and dismiss the charge if the Petitioner either filed a Complaint with the Commission or circuit court, or if the Petitioner's time to file a Complaint expired.

The Petitioner timely filed a Complaint with the Commission within the 90-day time period. However, the Respondent clearly premised its dismissal on the "expiration of time to file a complaint with the Commission" because the Petitioner failed to notify the Respondent that he had filed a

