



**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)	
)	
MICHAEL H. KRAFCISIN,)	
)	
Complainant,)	CHARGE NO. 2003CA3324
)	ALS NO. 05-140
)	
AND)	
)	
)	
RCN CORPORATION,)	
)	
Respondent.)	

RECOMMENDED ORDER AND DECISION

On April 11, 2005, Complainant Michael H. Krafcisin filed a *Complaint of Civil Rights Violation* with the Illinois Human Rights Commission on his own behalf. On May 25, 2005, Respondent RCN Corporation filed its *Motion to Dismiss* the complaint for lack of timeliness. Then on June 7, 2005, the Department of Human Rights filed an *Advisory Memorandum in Support of Motion to Dismiss for Lack of Jurisdiction*. This matter is now ready for decision.

FINDINGS OF FACT

The following facts were derived from the record file in this matter:

1. Complainant filed Charge No. 2003CA3324 on May 12, 2003 alleging civil rights violations under the Human Rights Act.
2. On November 17, 2003, both parties agreed to a 180-day extension to allow the Department to complete its investigation or until November 10, 2004.
3. On October 4, 2004, the Department dismissed Complainant's charge for lack of substantial evidence.

4. On November 5, 2004, Complainant filed a timely *Request for Review* with the Department's Chief Legal Counsel.
5. On February 28, 2005, the Department's Chief Legal Counsel vacated and remanded Complainant's charge for further investigation.
6. On March 21, 2005, during that investigation, both parties agreed to a second extension of 120 days or until August 4, 2005 so that the Department could complete its investigation.
7. On April 11, 2005, Complainant filed a *Complaint of Civil Rights Violation* with the Commission on his own behalf.

CONCLUSIONS OF LAW

1. Under the Illinois Human Rights Act, the Department has jurisdiction to investigate charges for 365 days after the filing of the perfected charge plus any extensions agreed to by the parties. *775 ILCS 5/7(A)-102(G)(1)*.
2. Pursuant to the agreed upon 120-day written extension signed by the parties, the Department continues to have jurisdiction over this matter until August 4, 2005.
3. The Commission lacks jurisdiction over this matter because the April 11, 2005 *Complaint of Civil Rights Violation* was filed prematurely.

DISCUSSION

Under the Illinois Human Rights Act, *775 ILCS 5/7(A)-102(G)(1)*, after a charge of discrimination has been filed and perfected with the Department of Human Rights, the Department must, within 365 days or within any extensions of that period agreed to in writing, file a *Complaint of Civil Rights Violation* with the Commission or dismiss the charge of discrimination with prejudice. In other words, the Department has 365 to complete its investigation of a charge and that 365 days can be extended if agreed to by the parties in writing.

In the matter at hand, on March 21, 2005, both Complainant and Respondent agreed to extend the Department's investigation period for another 120 days. The new expiration date for the Department to complete its investigation and file a complaint or dismiss the charge was at that point extended to August 4, 2005. Therefore, on April 11, 2005, the day that Complainant filed his *Complaint of Civil Rights Violation*, the Department continued to have jurisdiction over Charge No. 2003CA3324. Clearly, Complainant's April 11, 2005 complaint was filed with the Commission prematurely and should be dismissed with prejudice.

RECOMMENDATION

Based on the foregoing, it is recommended that the instant *Complaint of Civil Rights Violation*, ALS No. 05-140, be dismissed with prejudice. The underlying charge, however, No. 2003CA3324, should not be dismissed so that the Illinois Department of Human Rights can continue its investigation thereof.

ENTERED: June 28th, 2005

HUMAN RIGHTS COMMISSION

**MARIETTE LINDT
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION**