



STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION

IN THE MATTER OF: )  
 )  
 **PAULA SMITH-BRUCE,** )  
 )  
 Complainant, )  
 )  
 and )  
 )  
 **LINCOLN LAND COMMUNITY COLLEGE** )  
 **DISTRICT 526,** )  
 )  
 Respondent. )

CHARGE NO: 2005SF0513  
EEOC NO: 21BA42997  
ALS NO: S05-385

**RECOMMENDED ORDER AND DECISION**

This matter comes to me on the motion by Respondent, Lincoln Land Community College District No. 526, to dismiss this Complaint on the grounds that it is untimely. On October 21, 2005, an Order was entered which established a briefing schedule, but Complainant has not filed a responsive brief. Moreover, on April 6, 2006, an Order was entered directing the Department to file a status report on Complainant’s Charge of Discrimination, but it too failed to file a status report.

**Contentions of the Parties**

In its motion to dismiss, Respondent contends that the instant Complaint is untimely since the Complainant filed her own Complaint during a time when the Department had obtained an extension of time to complete its investigation of Complainant’s Charge of Discrimination.

**Findings of Fact**

Based on the record in this matter, I make the following Findings of Fact:

1. On August 26, 2004, Complainant filed a Charge of Discrimination alleging on her own behalf that she had been denied an employment contract in retaliation for having previously filed a Charge of Discrimination.

2. On February 24, 2005, the parties agreed in writing to a 180-day extension of time beyond the applicable 365-day deadline for the Department of Human Rights to complete its investigation of Complainant's Charge.

3. On August 30, 2005, Complainant filed the instant Complaint on her own behalf, again alleging that she was the victim of unlawful retaliation for having previously filed a Charge of Discrimination. August 30, 2005 is only four days into the 180-day extension of time agreed to by both parties.

4. On October 21, 2005, Respondent filed the instant motion to dismiss the instant Complaint, alleging that the Commission lacked subject-matter jurisdiction based on Complainant's premature filing of her own Complaint.

5. Complainant has failed to file a response to the instant motion as of the date of this Order.

#### **Conclusions of Law**

1. Complainant is an individual claiming to be aggrieved by a violation of the Illinois Human Rights Act (775 ILCS 5/1-101 et seq.).

2. The Human Rights Commission has authority to determine whether it has jurisdiction over the instant Complaint.

3. Section 7A-102(G)(2) of the Human Rights Act (775 ILCS 5/7A-102(G)(2)) grants complainants the ability to file their own complaints with the Commission, but only between 365 and 395 days after a charge of discrimination has been filed, or 30 days after such longer period agreed to in writing by all parties.

4. The instant Complaint is not timely because Complainant filed her Complaint prior to the expiration of an agreed 180-day extension of the Department's exclusive period for filing complaints under Section 7A-102(G)(2).

#### **Determination**

The Commission lacks jurisdiction to proceed on the instant Complaint because it was not timely filed pursuant to the statutory time frame set forth in section 7A-102(G)(2) of the Human Rights Act (775 ILCS 5/7A-102(G)(2)). Moreover, the Department should be permitted to proceed on Complainant's underlying Charge of Discrimination.

#### **Discussion**

Section 7A-102(G)(2) of the Human Rights Act (775 ILCS 5/7A-102(G)(2)) authorizes a complainant to file a complaint on her own behalf with the Commission within 30 days after the expiration of 365 days from the filing of her charge of discrimination, or 30 days after such longer period agreed to by the parties in writing, if the Department has not sooner ordered that no complaint be issued. The Commission has considered instances where complainants have filed their own complaints outside this thirty-day window and have found these filings to be jurisdictionally deficient (see, **Quigley and Peoria Civic Center**, \_\_\_ Ill. HRC Rep. \_\_\_, (1989CA2819, July 22, 1991), even in the circumstance where a complainant has filed a complaint prior to the expiration of the Department's exclusive investigation period. See, **Leuellen and White County Coal Corporation**, \_\_\_ Ill. HRC Rep. \_\_\_, (1995SF0398, January 26, 1996).

Here, while the instant Complaint was filed beyond the original 365-day investigation period, it was filed only after four days into the 180-day extension of time that the parties had agreed to permit the Department to conduct its investigation of Complainant's Charge of Discrimination. As such, Complainant's Complaint is not timely under the instant record, and the normal remedy is to dismiss the Complaint and remand the matter to the Department for further proceedings, although the Department has been

unable or unwilling to share with the Commission the status of Complainant's Charge of Discrimination. Moreover, Complainant apparently concedes that a remand is required given the lack of any response to Respondent's motion to dismiss.

**Recommendation**

For all of the above reasons, I recommend that Respondent's motion to dismiss the instant Complaint be granted, and that the matter be remanded back to the Department for further proceedings.

HUMAN RIGHTS COMMISSION

BY: \_\_\_\_\_  
MICHAEL R. ROBINSON  
Administrative Law Judge  
Administrative Law Section

ENTERED THE 28TH DAY OF SEPTEMBER, 2006