

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2016CR3417
)	EEOC NO.: N/A
WILLIE WESLEY, JR.,)	ALS NO.: 17-0381
)	
)	
Petitioner.)	

ORDER

This matter coming before the Commission on July 20, 2022, by a panel of three, Robert A. Cantone, Barbara R. Barreno-Paschall, and Janice M. Glenn, presiding upon Willie Wesley Jr.'s ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2016CR3417 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, THEREFORE, it is hereby **ORDERED** that the Respondent's Dismissal of the Petitioner's charge is **SUSTAINED** for **LACK OF JURISDICTION**.²

DISCUSSION

On June 9, 2016, the Petitioner filed a discrimination charge with the Equal Employment Opportunity Commission (EEOC). Following the EEOC's dismissal of his charge, the Petitioner requested the Respondent investigate his charge. The Petitioner alleges the Chicago Transit Authority ("CTA") failed to hire him due to his race, color, sex, age, disability, and genetic information in violation of Sections 1-102(A), 1-103(A) and (Q), and 2-102(A) of the Illinois Human Rights Act ("Act"). On August 3, 2017, the Respondent dismissed the Petitioner's charge for Lack of Jurisdiction. On September 14, 2017, the Petitioner filed a timely request. On June 24, 2019, the Commission's Special Panel entered an order referring the matter to the Commission's Chief Administrative Law Judge for a hearing on an issue of factual basis. On May 18, 2022, Administrative Law Judge ("ALJ") Michael R. Robinson issue his report on his findings.

The Commission concludes that the Respondent properly dismissed Petitioner's charge for Lack of Jurisdiction. If a charge is not timely filed, then the Respondent lacks jurisdiction to investigate the merits of the charge. *See Pickering v. Illinois Human Rights Commission*, 146 Ill. App.3d 340, 496 N.E 2d 746 (1986).

Section 7A-102(A)(1) of the Act provides that in employment cases a complainant must file a charge of discrimination with the Respondent within 180 days after the date of the alleged civil rights

¹ 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."

² This order is entered pursuant to a 3-0-0 vote by the Commissioners.

violation. This 180-day filing requirement is jurisdictional. Failure to file a charge within the prescribed time deprives the Respondent and the Commission of jurisdiction to proceed further. *See Trembczynski v. Human Rights Commission*, 252 Ill.App.3d 966, 625 N.E.2d, 215, 218 (1st Dist 1993).³ The Commission has previously held that the 180-day period begins to run from the time that the adverse action is communicated to the Complainant. *See Fletcher Barnes and Chicago Transit Authority*, 36 Ill. HRC Rep. 211, 2 (1987).

The Petitioner alleged that he applied for a position with the CTA in June 2015 as a Part-Time Bus Driver. On August 10, 2015, CTA interviewed the Petitioner for the position. On August 11, 2015, CTA sent the Petitioner an email notifying the Petitioner that he was not selected for the position of Part-Time Bus Driver. On December 4, 2015, the CTA sent the Petitioner a second email again notifying the Petitioner that he was not selected for the job. Both emails were sent to the same email which the Petitioner supplied to CTA.

In the Petitioner's Request, the Petitioner argued that he was first notified that he was not chosen for the Part-Time Driver position on January 8, 2016 and as such he filed his charge timely.

The Respondent conducted a full investigation of the Petitioner's charge. In its Response to the Request, the Respondent requests that the dismissal of the charge be sustained for Lack of Jurisdiction because the Petitioner did not file his charge within 180 days of the alleged civil rights violation. The Respondent further argued in its Response that even if it had jurisdiction over the Petitioner's matter, its investigation revealed that the Petitioner did not establish a *prima facie* case of discrimination. There was no evidence that CTA treated a similarly situated job applicant outside the Petitioner's protected class more favorably under similar circumstances. *See Marinelli v. Human Rights Commission*, 262 Ill.App.3d 247, 634 N.E.2d 463 (2d Dist. 1994). Lastly, the Respondent argued that CTA articulated a non-discriminatory reason for not hiring the Petitioner and there was no evidence that the non-discriminatory reason was pretext for unlawful discrimination.

In ALJ Robinson's Report, ALJ Robinson found there was no evidence to substantiate the Petitioner's claim that he first received notice on January 8, 2016. Rather, ALJ Robinson found that the Petitioner admitted that he received CTA's December 4, 2015, email notifying the Petitioner that he was not selected, and that the Petitioner refused to open the email because he was discouraged about his prospects for the job.

The Petitioner filed his charge on June 9, 2016, approximately ten months after he received CTA's August 11, 2015 email and 188 days after the December 4, 2015 date. As such, the Petitioner's charge was un-timely, and the Respondent lacked jurisdiction over the Petitioner's matter.

³ The Petitioner's charge was file prior to the Act being amended to extend the time to file a charge within 300 calendar days after the date that a civil rights violation allegedly has been committed.

THEREFORE, IT IS HEREBY ORDERED THAT:

The Respondent's Dismissal of the Petitioner's charge is **SUSTAINED for LACK OF JURISDICTION.**

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, Chicago Transit Authority as Respondents, 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 26th day of July 2022.**

Commissioner Robert A. Cantone

Commissioner Barbara R. Barreno-Paschall

Commissioner Janice M. Glenn