

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2009CF4352
)	EEOC NO.: 21BA92635
MARY L. WESTERGAARD,)	ALS NO.: 11-0499
)	
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Rozanne Ronen¹, Nabi Fakroddin, and Merri Dee², presiding, upon Mary L. Westergaard's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")³ of Charge No. 2009CF4352; 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** on the following ground:

FAILURE TO PROCEED

In support of which determination the Commission states the following findings of fact and reasons:

1. On March 27, 2008, the Petitioner filed an unperfected charge of discrimination with the Respondent. The Petitioner alleged St. James Hospital ("Respondent") subjected her to sexual harassment and discharged her in retaliation for opposing unlawful discrimination in violation of Section 2-102(D) and 6-101(A) of the Illinois Human Rights Act ("Act"). On June 30, 2011, the Respondent dismissed the Petitioner's charge for Failure to Proceed. On August 3, 2011, the Petitioner filed a Request for Review.

¹ This Order is in accordance with a vote cast by Commissioner Ronan prior to the expiration of her term.

² This Order is in accordance with a vote cast by Commissioner Dee prior to the expiration of her term.

³ 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. On July 15, 2009, the Respondent's Staff mailed a letter and a copy of the Petitioner's unperfected charge to the Petitioner for signature and notarization via regular mail. The letter requested that the Petitioner return the executed and notarized charge by July 27, 2009. The letter further stated that if the signed and notarized charge is not returned by the due date, the Respondent will assume that the Petitioner does not wish to proceed with this matter and will recommend dismissal of the charge for failure to proceed. The Petitioner failed to return the signed and notarized charge by July 27, 2009.
3. On August 6, 2009, and August 14, 2009, the Respondent attempted to contact the Petitioner by telephone. On August 17, 2009, and August 18, 2009, the Respondent attempted to contact the Petitioner's contact people. The Respondent left voicemail messages for the Petitioner to contact the Respondent.
4. On September 4, 2009, the Respondent sent the Petitioner a letter advising the Petitioner that she needed to contact the Respondent in order to proceed with her charge. The letter advised that if the Petitioner did not contact the Respondent within thirty days, her charge would be dismissed. The letter was addressed to the Petitioner at the address she listed as being her on her charge and in her Request: 25141 Faraday Road, Manhattan, Illinois 60442. The letter was not returned as undeliverable.
5. On June 30, 2011, the Respondent issued a Notice of Dismissal ("Notice"), pursuant to Sections 2520.430(c) and 2520.560(b)(2) of the Respondent's Rules and Regulations, 56 Ill.Admin.Code, Chapter II, Sections 2520.430(c) and 2520.560(b)(2). The Notice informed the Petitioner that he could seek review of the dismissal by filing a "Request for Review" with the Illinois Human Rights Commission within 30 days of receipt of the Notice.
6. In his Request for Review, the Petitioner argues that she did not receive the Respondent's messages and that she mailed a notarized letter stating that she wished to proceed with her charge.
7. In its response, the Respondent argues that it gave the Petitioner numerous opportunities to verify her charge and to contact the Respondent; yet, on each opportunity the Petitioner failed to contact the Respondent. The Respondent then outlines the numerous attempts it made to contact the Petitioner.

