

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2012CF1592
)	EEOC NO.: 21BA20487
DARREN MARC LEE,)	ALS NO.: 12-0391
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Nabi Fakroddin, Lauren Beth Gash,¹ and Hermene Hartman presiding, upon Darren Marc Lee's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")² of Charge No. 2012CF1592 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 for **LACK OF JURISDICTION** is **SUSTAINED**.

DISCUSSION

On October 19, 2011, the Petitioner filed an unperfected charge of discrimination with the Respondent alleging that Strack & Van Til, LLC d/b/a Ultra Foods ("Employer") subjected him to harassment and discharged him because of his mental disability in violation of Section 2-102(A) of the Illinois Human Rights Act ("Act"). The charge was perfected on December 7, 2011. On May 24, 2012, the Respondent dismissed the Petitioner's charge for lack of jurisdiction. The Petitioner filed a timely Request.

The Act provides that a charge must be filed within 180 days after the date that a civil rights violation allegedly has been committed. 775 ILCS 5/7A-102(A). This requirement is jurisdictional, meaning that if the Petitioner does not file his charge within the 180 day time limit, neither the Respondent nor the Commission have the jurisdiction to proceed on the charge. Trembczynski v. Human Rights Comm'n, 252 Ill. App. 3d 966, 969 (1st Dist. 1993).

While the charge states that the harassment began on or about September 28, 2010 and continued through September 1, 2011, and that the Petitioner was discharged on September 1, 2011, the investigation revealed that September 28, 2010 was the Petitioner's last day at work, and therefore the last day of harassment. The Petitioner was formally discharged on October 4, 2010. Thus, the Petitioner's charge was filed 386 days after the date of the last harassment and 380 days after his discharge. The Petitioner's Request stated that he did not know about the 180 day

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

² In a request for review proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Illinois Department of Human Rights's action shall be referred to as the "Petitioner."

requirement. However, because the 180 day time limit is jurisdictional, the Commission does not have the discretion to allow the charge to go forward.

Accordingly, the Petitioner has not presented any evidence to show that the Respondent's dismissal of the charge was not in accordance with the Act.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The dismissal of the Petitioner's charge is hereby **SUSTAINED**.
2. 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 Strack & Van Til, LLC d/b/a Ultra Foods as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS)	
)	Entered this 29th day of October 2018.
HUMAN RIGHTS COMMISSION)	

Commissioner Nabi R. Fakroddin

Commissioner Lauren Beth Gash

Commissioner Hermene Hartman