

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2012CF2930
)	EEOC NO.: 21BA21446
DATOOS ABJOU,)	ALS NO.: 13-0136
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Duke Alden, Rose Mary Bombela-Tobias, and Patricia Bakalis-Yadgir presiding, to correct a typographical error in the Commission's October 2, 2018 Order in this matter.

IT IS SO ORDERED:

- 1) The following language is stricken from the October 2, 2018 Order: "This Order is not yet final and appealable."
- 2) The stricken language is replaced with the following language: "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 Lakeview Bus Lines, Inc. as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order."
- 3) All other provisions in the October 2, 2018 Order remain in full force and effect.

STATE OF ILLINOIS)	
)	Entered this 3rd day of October 2018.
HUMAN RIGHTS COMMISSION)	

Commissioner Duke Alden

Chair Rose Mary Bombela-Tobias

Commissioner Patricia Bakalis-Yadgir

**STATE OF ILLINOIS
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ORDER

This matter coming before the Commission by a panel of three, Commissioners Duke Alden, Rose Mary Bombela-Tobias, and Patricia Bakalis-Yadgir presiding, upon Datoos Abjou (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Respondent of Human Rights (“Respondent”)¹ of Charge No. 2012CF2930; 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, **WHEREFORE**, it is hereby **ORDERED** that:

*The Respondent’s dismissal of the Petitioner’s charge is **SUSTAINED** for **LACK OF JURISDICTION**.*

In support of which determination, the Commission states the following:

A. PROCEDURAL HISTORY

1. On April 11, 2012, Petitioner filed a perfected charge of discrimination with the Respondent, alleging that Lakeview Bus Lines, Inc. (“Employer”), discriminated against him when it discharged him based on his race, black (Count A), his sex, male (Count B), and in retaliation for opposing unlawful discrimination in the workplace (Count C), in violation of Sections 2-102(A), and 6-101(A) of the Illinois Human Rights Act (“Act”).
2. In his charge, the Petitioner alleged that on October 14, 2011, Mike Wagner (“Wagner”), Owner, and Dawn Johnson (“Johnson”), Owner, asked his age and commented that Petitioner looked like a thug and needed to dress his age and subsequently discharged him. Petitioner further alleged that he was discharged due to his sex, male, because female employees were treated more favorably than him. Petitioner further alleged that, in June 2011, he informed a Charter Manager that she was racially profiling him because, when she assigned him to charter a group of white customers, she instructed Petitioner how to act. Petitioner further

¹ In a Request for Review Proceeding, the Illinois Respondent of Human Rights is the “Respondent.”

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alleged that he was discharged within such a period of time as to raise inference of retaliatory motivation.

3. On January 9, 2013, Complainant completed a technical amendment amending the date of the alleged harm to October 12, 2011.
4. On January 23, 2013, the Respondent dismissed Petitioner's charge for Lack of Jurisdiction.
5. On April 16, 2013, Petitioner filed this timely Request.
6. On May 10, 2013, the Respondent filed its Response to the Request.

B. FACTUAL HISTORY, ALLEGATIONS, & ARGUMENTS

1. Complainant filed the instant charge on April 11, 2012.
2. On January 9, 2013, at the Department's Fact-Finding Conference (FFC"), Complainant indicated that the actual date of the alleged harm was October 12, 2011.
3. Section 7A- 102(A)(1) of the Act indicates that a charge must be filed within 180 days after the date an alleged civil rights violation has been committed.
4. Complainant filed the instant charge 182 days after the alleged incident.
5. In his Request, the Petitioner argues the merits of his case and attaches various employment records. The Petitioner makes no arguments related to jurisdiction.
6. In its Response, the Respondent asks the Commission to sustain its dismissal of the Petitioner's charge for Lack of Jurisdiction. The Respondent argues that its investigation revealed that Complainant filed his charge on April 11, 2012, which is 182 days after Complainant was discharged by Respondent. Therefore, the Respondent argues that the Complainant's charge was not timely filed pursuant to Section 7A-102(A)(1) of the Act.

C. DISCUSSION & DETERMINATION

The Commission sustains the dismissal of the Charge for Lack of Jurisdiction. The Respondent is indeed correct that the 180-day filing time is jurisdictional; 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). 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). In other words, "the 180-day period begins when the employer gives notice of the

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discriminatory action, which is when the injury is deemed to have occurred." See Jesse Lofton and Brown & Williamson Tobacco Corp., IHRC, ALS No. 4306, June 29, 1992, 1992 WL 721759, * 5.

In the present case, it is undisputed that the date of the alleged harm was October 12, 2011, which is 182 days prior to April 11, 2012, when the Petitioner filed his charge. Therefore, the Petitioner did not timely file her charge within 180 days of the alleged civil rights violation, as is required by Section 7A-102(A)(1) of the Act.

Therefore, the Commission finds there is a lack of jurisdiction, and the dismissal of the Petitioner's charge is **SUSTAINED**.

THEREFORE, IT IS HEREBY ORDERED THAT:

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

This Order is not yet final and appealable.

STATE OF ILLINOIS)
HUMAN RIGHTS COMMISSION)

Entered this 2nd day of October 2018

Commissioner Bakalis-Yadgir

Commissioner Alden

Chair Bombela-Tobias