

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST )	
FOR REVIEW BY: )	CHARGE NO.: <b>2013CN2700</b>
)	EEOC NO.: <b>N/A</b>
<b>DONITA DENISE HARRIS,</b> )	ALS NO.: <b>14-0097</b>
)	
)	
Petitioner. )	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Michael Bigger, Amy Kurson, and Cheryl Mainor presiding, upon Donita Denise Harris's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")<sup>1</sup> of Charge No. 2013CN2700 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 Notice of Dismissal is **SUSTAINED** for **FAILURE TO PROCEED**.

**DISCUSSION**

On December 28, 2012, the Petitioner filed an unperfected charge of discrimination with the Respondent, perfected on June 17, 2013, alleging that Apple Illinois, LLC d/b/a Applebee's, ("Applebee's") harassed, reduced her hours, and constructively discharged her, because of her sexual orientation, in violation of Section 2-102(A) of the Illinois Human Rights Act ("Act"). On December 26, 2013, the Respondent dismissed Petitioner's charge for Failure to Proceed. On March 29, 2014, the Petitioner filed this timely Request for Review ("Request") with the Commission.

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for Failure to Proceed. If the Petitioner's fails to cooperate with the Respondent, the Respondent may dismiss the charge pursuant to Section 2520.430(c) of the Respondent's Rules and Regulations. See 56 Ill. Admin. Code, ch. II, Section 2520.430(c). Section 2520.430(c) states that; "A complainant must promptly provide the Department with a notice of any change in address or telephone number or of any prolonged absence from the current address so that he or she can be located. A complainant must cooperate with the Department, provide necessary information and be available for interviews and conferences upon reasonable notice or request by the Department. If a complainant cannot be

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<sup>1</sup> 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."

located or does not respond to reasonable requests by the Department, the Department may dismiss the charge pursuant to Section 2520.560”.

On October 28, 2013, the Respondent mailed a letter to the Petitioner informing her that Applebee’s filed a Bankruptcy Petition and the Petitioner needed to file a proof of claim and obtain a waiver of the automatic stay from the Bankruptcy Court in order to proceed with her claim before the Respondent. The letter further informed the Petitioner that she must provide evidence that she applied for a proof of claim and received a waiver to proceed within thirty (30) days or by November 27, 2013, or her charge may be dismissed for Failure to Proceed. The Respondent further enclosed with its letter a copy of Applebee’s Bankruptcy Petition as well as information on how the Petitioner could file her proof of claim. The Petitioner failed to file a proof of claim and a waiver of the automatic stay with the Respondent.

In her Request, the Petitioner argues the merits of her charge and fails to explain why she failed to file a proof of claim and a waiver of the automatic stay with the Respondent. Accordingly, it is the Commission’s decision that the Petitioner has not presented any evidence to show that the Respondent’s dismissal of the Charge was not in accordance with the Act. The Petitioners’ Request is not persuasive.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

The dismissal of Petitioner’s charge is hereby **SUSTAINED**.

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, Apple Illinois, LLC d/b/a Applebee's as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

**STATE OF ILLINOIS** )  
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**HUMAN RIGHTS COMMISSION** )

**Entered this 29<sup>th</sup> day of November 2018**

Commissioner Michael Bigger

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Commissioner Amy Kurson

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Commissioner Cheryl Mainor

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