

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2014SN0039
)	EEOC NO.: N/A
DENNIS HENRY)	ALS NO.: 14-0572
)	
)	
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Michael Bigger, Amy Kurson, and Cheryl Mainor presiding, upon the Request for Review (“Request”) of Dennis Henry (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”) of Charge No. 2014SN0039 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 June 22, 2013, the Petitioner filed a charge with the Respondent alleging that Mel Foster Co. Inc., of Illinois (“Foster”) discharged him on May 29, 2013 because of his sexual orientation (homosexual), in violation of Section 6-101(A) of the Illinois Human Rights Act.

On September 22, 2014, the Respondent dismissed the charge for Lack of Jurisdiction, finding that the Petitioner was not an “employee” of Foster as defined by the Act. The Petitioner filed a timely Request.

The Commission concludes that the Respondent properly dismissed the Petitioner’s charge for Lack of Jurisdiction. The Act defines “employee” to include, “any individual performing services for remuneration within this state for an employer.” 775 ILCS 5/2-101(A)(1)(a). Independent contractors are not employees under the Act, and the Commission applies a four factor analysis to determine whether an individual performing services is an employee or an independent contractor: 1) the amount of control or supervision; 2) the right of discharge; 3) the method of payment; 4) the skill level required and the amount of work to be done, and 5) the source of tools, materials, and equipment. In the Matter of Whittington and K-Mart Corp., IHRC, Charge No. 1987CF0520, 1992 WL 721840, *2 (November 18, 1987).

Commissioner Cheryl Mainor