

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)		
FOR REVIEW BY:)	CHARGE NO.:	2014CF1543
)	EEOC No.:	21BA40566
MICHAEL ARROYO,)	ALS NO.:	14-0599
)		
Petitioner.)		

ORDER

This matter coming before the Commission by a panel of three Commissioners, Michael Bigger, Amy Kurson and Cheryl Mainor, presiding upon Michael Arroyo's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent") of Charge No. 2014CF1543 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 is **SUSTAINED for FAILURE TO PROCEED**.

DISCUSSION

On December 19, 2013, the Petitioner, Michael Arroyo, filed a perfected charge with the Respondent, alleging Weber Grill Restaurants, LLC reduced his work hours, suspended him and discharged him due to his national origin, Puerto Rico, in violation of Section 2-102(A) of the Illinois Human Rights Act. On December 11, 2014, the Respondent dismissed this charge for Failure to Proceed. On December 24, 2014, the Petitioner filed a timely Request for Review.

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for failure to proceed. Section 7A-102(C)(4) of the Act states that: "Any party's failure to attend the conference without good cause shall result in dismissal or default. The term "good cause" shall be defined by rule promulgated by the Department." See also Section 2520.440(d)(1). Section 2520.440(d)(3)(A) of the Act defines good cause for failing to attend the fact-finding conference to include, but not be limited to: i) death or sudden, serious illness of a party scheduled to attend the fact finding conference; or ii) death or sudden, serious illness of an immediate family member of a party scheduled to attend the fact finding conference; or iii) the party acted with due diligence and was not deliberate or contumacious and did not unwarrantedly disregard the fact-finding conference process, as supported by affidavit or other evidence; or iv) circumstances beyond the non-attending party's control, as supported by affidavit or other evidence."

The Petitioner has not demonstrated good cause for his failure to cooperate with the Respondent. On September 16, 2014, the Respondent and Petitioner agreed in English to attend a fact finding conference scheduled for 1:00 p.m. on October 28, 2014. The Petitioner failed to attend even though he was sent a reminder letter dated September 24, 2014. Additionally, Petitioner did not respond within 30 days of receiving Respondent's October 29, 2014 letter advising him that failure to contact Respondent by November 28, 2014 would result in dismissal of the charge. An EEOC letter dated October 29, 2014, drafted in English and Spanish, also advised Petitioner to respond within 30 days or face dismissal of the case. The mail was not returned to Respondent as undeliverable and the Petitioner did not allege he did not receive it. The Petitioner did not contact the Respondent and indicate his inability to attend because his mother was visiting and helping him or how his mother's visit interfered with his ability to attend the conference. Petitioner does not state that she assisted him with a serious illness or to prevent his death. Petitioner did not provide an affidavit stating that his actions were not deliberate or contumacious. Accordingly, it is the Commission's decision that the Respondent's dismissal of the charge for failure to cooperate is proper and was 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 Weber Grill Restaurants, LLC as the respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

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)
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Entered this 21 day of Nov. 2018.

Commissioner Michael Bigger

Commissioner Amy Kurson

Commissioner Cheryl Mainor