

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

<b>IN THE MATTER OF THE REQUEST</b>	)	
<b>FOR REVIEW BY:</b>	)	CHARGE No.: 2015 CF 0084
	)	EEOC.: 21 BA 42073
Nichole Lazcano,	)	ALS No.:15-0107
	)	
<b>Petitioner.</b>	)	

**ORDER**

This matter coming before the Commission by a panel of three, Hermene Hartman, Steve Kim, and Cheryl Mainor, presiding, over the Matter of Nicole Lazcano’s (Petitioner) Request for Review (Request) of the Notice of Dismissal issued by the Illinois Department of Human Rights (Respondent<sup>1</sup>), of Charge 2015CF 0084 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 in the premises;

**NOW, THEREFORE**, it is hereby **ORDERED** that the Respondent’s dismissal of the Petitioner’s charge for **FAILURE TO PROCEED** is **SUSTAINED**.

**DISCUSSION**

The Petitioner filed a perfected charge of discrimination on July 15, 2014, alleging that her employer discharged her because of her race, sex, and in retaliation for filing a previous charge with the Department in violation of Sections 2-102(A) and 6-101(A) of the Illinois Human Rights Act. 775 ILCS 5/1 *et seq.* The Department of Human Rights (Respondent) dismissed this charge for Failure to Proceed. The Petitioner filed a timely Request for Review.

The Commission concludes that the Respondent correctly dismissed the Petitioner’s charge for failure to proceed. Following its receipt of the Employer’s verified response to the charge, on November 6, 2014, the Department attempted to contact the Petitioner by phone. Over the next few weeks, The Department made several attempts to contact the Petitioner and attempted to reach those persons listed as alternate contacts. The Department received a voice message from a caller stating that the Petitioner had gone to Mexico. The caller did not leave a telephone number. The Department also sent letters to the Petitioner and her alternate contacts urging her to contact the Department. Receiving no response from the Petitioner and no mail returned as undeliverable, the Department issued a Notice of Dismissal on December

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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.”

30, 2014. The Petitioner's March 9, 2015 Request listed the same address the Department had on file.

Under the Department's regulations, a complainant must notify the Department of an address or telephone number change or of any prolonged absence. This notice must be provided promptly. See 56 Ill. Adm. Code, 2520.403 (c). In addition, the complainant must cooperate with the Department, provide necessary information and be available for interviews and conferences. Where a complainant cannot be located or does not respond to reasonable requests by the Department, the Department may dismiss the charge. See 56 Ill. Adm. Code, 2520.560.

In the present case, the Department made several attempts over a more than seven-week period to reach the Petitioner and her alternate contacts by mail and phone, with no response from the Petitioner. In her Request, the Petitioner states that there was a "miscommunication between [her] and the State..." But the lack of communication was one-sided. She did not explain why she was not able to update the Department nor did she offer other information as to the length of her absence. Her failure to communicate reflects an "unwarranted disregard" for the Respondent's investigatory authority. See Denny's Inc., v. Department of Human Rights, 363 Ill.App.3d 1, 841 N.E.2d 438, 299 Ill. Dec. 26 (1st Dist., 2005) Without more, the Department's dismissal for failure to proceed must be sustained.

Accordingly, the Petitioner has not presented any evidence to show the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

**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 McDonald'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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Entered this 21st day of November 2018

**HUMAN RIGHTS COMMISSION**

Commissioner Hermene Hartman \_\_\_\_\_

Commissioner Steve Kim

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Commissioner Cheryl Mainor

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