

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)		
FOR REVIEW BY:	)	CHARGE NO.:	2014SF1825
	)	EEOC NO.:	21BA40777
PHILLIP MARCH	)	ALS NO.:	15-0137
	)		
Petitioner.	)		

**ORDER**

This matter coming before the Commission by a panel of three commissioners, Chair Rose Mary Bombela-Tobias and Commissioners Patricia Bakalis Yadgir and Duke Alden presiding upon Phillip March's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent") of Charge No. 2014SF1825 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:

- A) The Respondent's dismissal of Counts A-B of the Petitioner's charges is **SUSTAINED** for **LACK OF JURISDICTION**.

**DISCUSSION**

On September 17, 2013, Petitioner, Phillip March, filed a charge of discrimination with the department which she perfected on January 21, 2014, alleging his employer, Kraft Foods, failed to accommodate his physical disability (seizure) and unlawfully discharged him because of his disability in violation of Section 2-102(A) of the Human Rights Act. On December 9, 2014, the Respondent dismissed the charges for Lack of Jurisdiction. The Petitioner filed a timely Request for Review on March 12, 2015.

The Commission concludes that the Respondent properly dismissed the Petitioner's charges for lack of jurisdiction. Section 7A-102(A)(1) provides that an aggrieved party must file a charge of discrimination under oath or affirmation within 180 days after the date that the alleged civil rights violation has been committed. The petitioner's compliance with the 180-day filing requirement is a condition precedent to his right to seek a remedy and is required to vest the Commission with subject matter jurisdiction of the charge. Board of Educ. Of City of Chicago v.Cady, 369 Ill.App.3d 486, 860 N.E.2d 526, 307 Ill.Dec. 872, 215 Ed. Law Rep. 991 (2006).

Petitioner was diagnosed with a disorder that causes seizures and went on disability leave on August 16, 2010. Petitioner took the 30 months disability leave and the 30 month period ended January 31, 2013. On January 18, 2013, the employer sent

Petitioner a letter indicating that Petitioner's long-term disability claim had been denied effective February 1, 2013, and that his employment would be terminated on March 17, 2013 if he was unable to return to work by February 1, 2013. Petitioner's physician provided a list of work restrictions on January 23, 2013 and an amended list on January 29, 2013. On January 31, 2013, employer determined that the restrictions were not compatible with the job requirements of the position open at that time. Petitioner signed a "Voluntary Resignation" form sometime thereafter, but indicated the resignation was involuntary and that he was appealing the decision. On February 21, 2013, Petitioner met with his employer to discuss returning to work. On March 18, 2013 the employer sent the Petitioner a letter indicating **his employment had been terminated, effective March 17, 2013**. On April 9, 2013, the Petitioner received a letter from his employer indicating "after thorough review of the facts in the case, we believe the **decision** to not allow you to return to work was correct and **see no reason to overturn the decision at this time**."

The Employer sent the Petitioner a letter on March 18, 2013 which indicated he was terminated effective March 17, 2013. The Petitioner filed a charge with the Respondent on September 17, 2013 or 4 days after the 180 day time requirement. An Employer's refusal to change a previous decision is not a new act of discrimination. See Lee v. IHRC, 126 Ill.App.3d 666, 467 N.E.2d 943 (1<sup>st</sup> Dist. 1984). The employer's April 9, 2013 letter does not constitute a separate adverse action and the March 18, 2013 date was proper. The Commission concludes the Respondent properly dismissed these charges based on lack of jurisdiction.

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

- 1.The dismissal of the Petitioner's charges is hereby **SUSTAINED**.
- 2.This is a final order. A final order may be appealed to the Illinois Appellate Court by filing a Petition for Review naming the Illinois Human Rights Commission, the Illinois Department of Human Rights and Kraft Foods, as named party respondents, with the Clerk of the Illinois Appellate Court within 35 days after the date of service of this Final Order.

**STATE OF ILLINOIS** )  
 ) **Entered this 14 day of Dec. 2018.**  
**HUMAN RIGHTS COMMISSION** )

Chair Rose Mary Bombela-Tobias

Commissioner Patricia Bakalis Yaddir

Commissioner Duke Alden