

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION**

EDWARD S. FORTUNE,)	
)	
Plaintiff,)	
)	
v.)	Case No. 10-cv-1093
)	
WAL-MART STORES, INC.,)	
)	
Defendant.)	

O P I N I O N and O R D E R

Before the Court is the Motion to Dismiss filed by Defendant, Wal-Mart Stores, Inc. (Doc. 9). Plaintiff has failed to respond and the deadline for response has elapsed. The Motion is GRANTED and this matter is DISMISSED WITH PREJUDICE.

The Complaint in this matter alleges that Plaintiff was an employee of a Wal-Mart store located in East Peoria, Illinois and that his employment was terminated on June 13, 2008 because of his race. The Complaint indicates that Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission (EEOC) on January 15, 2010 (a document attached to the Complaint reveals that Plaintiff filed a Charge with the Illinois Department of Human Rights (IDHR) on December 17, 2009 and that it was received by the EEOC on January 15, 2010), that the Charge was dismissed as untimely, and that a Right to Sue letter was issued on February 24, 2010. Plaintiff filed the present lawsuit on April 9, 2010. Defendant seeks dismissal of the Complaint as untimely.

In Illinois, Plaintiff must file a charge with the EEOC within 300 days of the alleged discriminatory employment practice. *Filipovic v. K & R Express Sys., Inc.*, 176 F.3d 390, 395 (7th Cir. 1999). Failure to file a timely charge prevents Plaintiff from filing suit in this Court. *Chaudhry v. Nucor Steel-Indiana*, 546 F.3d 832, 836 (7th Cir. 2008). Plaintiff's charge was filed with the EEOC 581 days after the alleged unlawful employment practice. Therefore, it was untimely and he may not challenge the employment action before this Court. For this reason, the Complaint is DISMISSED WITH PREJUDICE.

Entered this 1st day of November, 2010

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s/ Joe B. McDade

JOE BILLY MCDADE
United States Senior District Judge