

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FERNANDO BENITEZ,)	
)	
Plaintiff,)	
)	
v.)	No. 08 C 5174
)	
A&R JANITORAL SERVICES, et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

Fernando Benitez ("Benitez"), using the form of Complaint of Employment Discrimination provided by the Clerk's Office into which he has hand-printed inserts, has sued his ex-employer A&R Janitorial (sic) Services ("A&R").¹ This memorandum order is issued sua sponte because the Complaint and this action are doubly deficient.

First, Complaint ¶7.1(a)(ii) alleges that Benitez filed his charge of age discrimination (no copy of which is attached, although Complaint ¶7.1(b) says it has been) with the Illinois Department of Human Rights ("Department") on August 8, 2008. But Complaint ¶8 has not satisfied the statutory precondition to suit by alleging EEOC's issuance of a right-to-sue letter flowing from

¹ Benitez has also named Geraldo Herrera and Mario Garcia as codefendants. Because it is unclear whether A&R is a corporation (in which case the individual defendants would not have been his "employer" for statutory purposes) or perhaps a partnership or other unincorporated entity (in which event the two individuals were properly joined), this Court cannot resolve the propriety of their inclusion. But as the text makes clear, that makes no difference--Benitez' lawsuit is doomed in any event.

that charge.

Accordingly this action must be and is dismissed as premature. And before Benitez were to consider bringing suit again if he were later to satisfy the missing precondition, he should also be aware that the Complaint appears to be fatally flawed in another respect: In Illinois any charge of employment discrimination must be filed within 300 days after an adverse action by the employer (such as firing the employee), and here Benitez says that his firing took place on July 17, 2007 (that date appears not only in Complaint ¶6 but also in Paragraph 2.a of his accompanying in forma pauperis application as the "Date of last employment"), more than a year before he filed his charge with the Department.



Milton I. Shadur
Senior United States District Judge

Date: September 15, 2008