

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

DENNIS SIMON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 10 C 3985
	)	
QUEEN OF HEAVEN, et al.,	)	
	)	
Defendants.	)	

MEMORANDUM ORDER

Dennis Simon ("Simon") has filed a Title VII Complaint of Employment Discrimination against his ex-employer, Queen of Heaven Cemetery ("Queen of Heaven"), and two individual defendants, filling out the standard form of Complaint provided by this District Court's Clerk's Office for pro se filers. Simon has accompanied the Complaint with two other Clerk's-Office-supplied forms: an In Forma Pauperis Application ("Application") and a Motion for Appointment of Counsel ("Motion"). Because Simon has pleaded himself out of court, this Court dismisses both the Complaint and this action as untimely.

Usually the issue of timeliness or untimeliness in an employment action poses the question whether a plaintiff has brought suit within the statutorily prescribed 90-day period after EEOC's issuance of a right-to-sue letter. But in this instance Simon strikes out at an even earlier stage in the process:

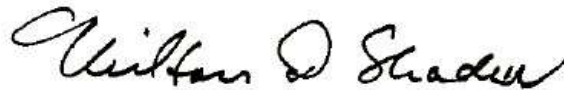
1. According to Simon's Charge of Discrimination, a

copy of which is attached, the alleged discrimination to which he was subjected ended on April 6, 2009, when he was discharged by Queen of Heaven.

2. Simon did not present his Charge of Discrimination to the Illinois Department of Human Rights and EEOC until March 15, 2010, more than 340 days later, well outside of the 300 day limit prescribed by 42 U.S.C. §2000e-5(e)(1). Understandably EEOC's right-to-sue letter, a copy of which is also attached, stated that EEOC had closed its file because:

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.

Because a timely charge of discrimination, in addition to the later requirement of the timely institution of suit after EEOC has issued a right-to-sue letter, is a prerequisite to bringing a court action, Simon cannot proceed. Both the Complaint and this action are dismissed with prejudice, and both the Application and the Motion are denied as moot.



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Milton I. Shadur  
Senior United States District Judge

Date: June 29, 2010

# CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

FEPA  
 EEOC

440-2010-00437

## Illinois Department Of Human Rights

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

**Mr. Dennis Simon**

Home Phone (Incl. Area Code)

**(708) 935-9433**

Date of Birth

**5/11/1955**

Street Address

City, State and ZIP Code

**12355 Springfield, Alsip, IL 60803**

925-

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

**QUEEN OF HEAVEN**

No. Employees, Members

**500 or More**

Phone No. (Include Area Code)

**(708) 449-8300**

Street Address

City, State and ZIP Code

**1400 South Wolf Road, Hillside, IL 60162**

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

RACE  COLOR  SEX  RELIGION  NATIONAL ORIGIN  
 RETALIATION  AGE  DISABILITY  GENETIC INFORMATION  
 OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

**04-06-2009**

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I began employment with Respondent as a Seasonal Worker on or about April 6, 1998. During my employment, I was subjected to harassment. On or about April 6, 2009, I was discharged.

I believe that I have been discriminated against because of my race, White, in violation of Title VII of the Civil Rights Act of 1964, as amended.

RECEIVED EEOC

MAR 15 2010

CHICAGO DISTRICT OFFICE

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY -- When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)

x

x *Dennis Simon*

Date

Charging Party Signature

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: Dennis Simon  
12355 Springfield, 2N  
Alsip, IL 60803

From: Chicago District Office  
500 West Madison St  
Suite 2000  
Chicago, IL 60661

CERTIFIED MAIL 7099 3400 0018 8817 8225

On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

440-2010-00437

Zelma Gonzalez,  
Investigator Support Asst

(312) 886-4821

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

Other (briefly state)

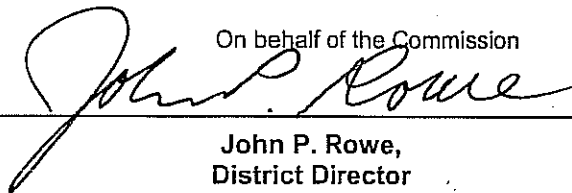
- NOTICE OF SUIT RIGHTS -

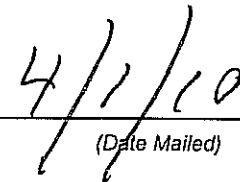
(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

  
John P. Rowe,  
District Director

  
(Date Mailed)

Enclosures(s)

cc: QUEEN OF HEAVEN