IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

DAVID WARREN, *Plaintiff,* v. TRI TECH LABORATORIES, INC., *Defendant.*	CIVIL ACTION NO. 6:12-CV-00046 MEMORANDUM OPINION NORMAN K. MOON UNITED STATES DISTRICT JUDGE

By counsel, Defendant filed a motion to dismiss the *pro se* Plaintiff's Title VII complaint as "untimely under 42 U.S.C. § 2000e-5(f)(1) because he failed to file his Complaint within ninety (90) days after receipt of the Equal Employment Opportunity Commission's ("EEOC") Right-to-Sue notice." Defendant contends that Plaintiff's complaint was filed on September 17, 2012, "which is ninety-one (91) days after his admitted receipt of the Right-to-Sue notice."

However, as the *pro se* Plaintiff points out in his response in opposition to the motion to dismiss, September 16, 2012, fell on a Sunday. Therefore, under Rule 6 of the Federal Rules of Civil Procedure, the time for filing the complaint was extended to Monday, September 17, 2012. *See* Fed. R. Civ. P. 6(a)(1)(C), 6(a)(3); *see also Perry v. LaHood*, 2009 WL 1350470 *7 n. 4 (E.D. Va. 2009); *Payan v. Aramark Management Services Ltd. Partnership*, 495 F.3d 1119, 1125 (9th Cir. 2007); *Milam v. U.S. Postal Service*, 674 F.2d 860, 862 (11th Cir. 1982); *Kane v. Douglas, Elliman, Hollyday & Ives*, 635 F.2d 141, 142 (2nd Cir. 1980); *Pearson v. Furnco Const. Co.*, 563 F.2d 815, 819 (7th Cir. 1977); *Akridge v. Gallaudet University*, 729 F. Supp. 2d 172, 178 (D. D.C. 2010); *Lunardini v. Massachusetts Mut. Life Ins. Co.*, 696 F. Supp. 2d 149, 160 (D. Conn. 2010); *Hudson v. Teamsters Local Union No. 957*, 536 F. Supp. 1138, 1146 (S.D.

Ohio 1982); *Irby v. Shelby County Government*, 508 F. Supp. 1080, 1083 (W.D. Tenn. 1981).

Accordingly, Defendant's motion to dismiss will be denied. An appropriate order accompanies this memorandum opinion.

Entered this 2nd day of May, 2013.

NORMAN K. MOON
UNITED STATES DISTRICT JUDGE