

With respect to Counts II and III, Plaintiff Jenkins filed his charges with the Equal Employment Opportunity Commission (“EEOC”) and the EEOC issued a “right to sue” letter on January 11, 2005. Defendants now move to dismiss Counts II and III pursuant to Federal Rule of Civil Procedure 12(b)(6).

II. DISCUSSION

Before an aggrieved party initiates a civil action for employment discrimination pursuant to Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e), he must file a charge of discrimination with the EEOC and must obtain from the EEOC a notice of his right to sue in federal court. See 42 U.S.C. § 2000e-5(f)(1); Burgh v. Borough Council of Borough of Montrose, 251 F.3d 465, 470 (3d Cir. 2001); Seitzinger v. Reading Hosp. And Medical Center, 165 F.3d 236, 239 (3d Cir. 1999); Woodson v. Scott Paper Co., 109 F.3d 913, 925 (3d Cir. 1997). An employment discrimination charge “shall be filed by or on behalf of the person aggrieved within three hundred (300) days after the alleged unlawful employment practice occurred” in a state such a Pennsylvania with an agency analogous to the EEOC. Otherwise, a plaintiff must file with the EEOC within one hundred eighty days (180) of the alleged act of discrimination.

In Robinson v. Dalton, 107 F.3d 1018, 1021 (3d Cir. 1997), the Third Circuit held that the three hundred day and the one hundred eighty day time periods are akin to a statute of limitations. Therefore, if an aggrieved party fails to file a timely complaint, then he is precluded from judicial remedy.

In the instant case, because Plaintiff Jenkins failed to file a timely complaint with the EEOC, the Court cannot entertain his Title VII claims. Plaintiff Jenkins filed his charge of

discrimination and retaliation with the EEOC on July 21, 2004. Jenkins alleged that the act of discrimination took place on August 7, 2003. Jenkins' three hundred day period within which to file his charge expired on June 3, 2004. Because Plaintiff Jenkins failed to file his charge in a timely manner, his claim is time-barred, and Counts II and III of the Plaintiffs' Complaint must be dismissed.

III. CONCLUSION

For the reasons stated above, Defendants' Motion to Dismiss Counts II and III of Plaintiffs' Complaint is granted.

An appropriate order follows.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ALONZA BAKER, JR., et al.,	:	CIVIL ACTION
	:	
Plaintiffs,	:	NO. 05-CV-1562
	:	
v.	:	
	:	
CITY OF PHILADELPHIA, et al.,	:	
	:	
Defendants.	:	

ORDER

AND NOW, this 14th day of September, 2005, upon consideration of Defendants’ Motion to Dismiss Counts II and III of Plaintiffs’ Complaint (Docket No. 6), and Plaintiffs’ Response thereto (Docket No. 8), it is hereby **ORDERED** that the Defendants’ Motion to Dismiss is **GRANTED**.

BY THE COURT:

RONALD L. BUCKWALTER, S.J.