

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

**MICHELLE L. RAGLAND,**

**Plaintiff**

**v.**

**MACY’S, INC.,**

**Defendant.**

\* \* \* \* \*

**CIVIL NO. JKB-11-3106**

**MEMORANDUM AND ORDER**

***I. Background***

Plaintiff Michelle Ragland filed suit against Defendant Macy’s Inc., alleging discrimination based on her race, age, national origin, and disability, following termination of her claim by the Equal Employment Opportunity Commission (“EEOC”). (Compl. 1, ECF No. 2; Compl. Ex. 2 at 1, ECF No. 2-3.) After removing the case from the Circuit Court in Anne Arundel County, Maryland (Notice of Removal 1, ECF No. 1), to this Court, Defendant filed a Motion to Dismiss, or in the Alternative, for Summary Judgment (ECF No. 7). Plaintiff responded (ECF No. 10) to Defendant’s Motion on November 23, 2011, but Defendant has not filed a Reply. This motion is ripe. No hearing is necessary. D. Md. Loc. R. 105.6. The Motion is DENIED in all respects.

***II. Analysis***

Macy’s asserts only one ground for dismissal or a grant of summary judgment in its favor—namely, that Plaintiff’s lawsuit was filed late. (Def.’s Mot. 1.) A plaintiff suing after denial of her claim by the EEOC has ninety days from receipt of a right-to-sue letter in which to

file suit. 42 U.S.C. § 2000e-5(f)(1). Defendant asserts that because the right-to-sue letter in the case at bar was issued on May 26, 2011, Plaintiff's suit could be filed no later than August 29, 2011, ninety days after May 31, which was the first day (other than a Sunday or federal holiday) at least three days after the letter's issuance. (Def.'s Mem. Supp. Mot. 4, ECF No. 7-1.) Plaintiff filed suit on August 30, 2011. (*Id.*) At first glance, Plaintiff's suit appears to be untimely by one day.

However, Macy's assumes the incorrect date for the beginning of the ninety-day period. The right-to-sue letter was postmarked May 27, 2011. (Def.'s Ex. 2 at 4, ECF No. 7-3.) This date of postmark should govern the calculation of when the right-to-sue letter was actually placed in the mail. Under Federal Rule of Civil Procedure 6(d), the ninety-day period for filing began three days later, on May 30. *See Baldwin Cnty. Welcome Ctr. v. Brown*, 466 U.S. 147, 148 n.1 (1984) (allowing three days for mail service under then-Rule 6(e) for presumed receipt of right-to-sue letter from EEOC). It stands to reason that the three days allowed for mail receipt should be days on which mail is delivered. May 29 was a Sunday, and May 30 was Memorial Day, a federal holiday. The third postal day after May 27 was June 1. It would be unfair to Plaintiff to presume that she received the right-to-sue letter before June 1 in the absence of evidence of the actual date of delivery. *See generally Darden v. Cardinal Travel Ctr.*, 493 F.Supp.2d 773, 776 (W.D. Va. 2007) (courts may take holidays into account when determining the date on which a letter was presumably received). Ninety days after June 1 was August 30, the date on which Plaintiff filed suit. Plaintiff's suit was therefore timely.

### ***III. Conclusion***

For the above reasons, Defendant's Motion to Dismiss, or in the Alternative, for Summary Judgment (ECF No. 7), is DENIED in all respects.

DATED this 19<sup>th</sup> day of December, 2011.

BY THE COURT:

/s/

---

James K. Bredar  
United States District Judge