STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST:	)	
FOR REVIEW BY:	)	CHARGE NO.: 2008CF1874
	)	EEOC NO.: 21BA80897
JOYCE PARKER,	)	HUD NO.: N/A
	)	ALS NO.: 08-0456
Complainant.	)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Sakhawat Hussain, M.D., Spencer Leak, Sr., and Rozanne Ronen presiding, upon Complainant's Request for Review ("Request") of the Notice of Dismissal ("Notice") issued by the Department of Human Rights ("Department") of Charge No. 2008CF1874, Joyce Parker, Complainant, and City of Chicago, Department of Public Health, Respondent; and the Commission having reviewed *de novo* the Department's investigation file, including the Investigation Report ("Report") and the Complainant's Request and supporting materials, and the Department's response to the Complainant's Request; and the Commission being fully advised of the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Department's dismissal of the Complainant's charge is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

1. On January 24, 2008, the Complainant filed a charge of discrimination with the Department alleging that the Respondent failed to accommodate the Complainant because of her physical disability, in violation of § 2-102(A) of the Illinois Human Rights Act ("Act"). On August 26, 2008, the Department dismissed the Complainant's charge for lack of substantial evidence of discrimination. On September 11, 2008, the Complainant filed a timely request for review.

2. The Department's investigation revealed that the Complainant was employed by the Respondent in its STD surveillance unit. During the Department's investigation, the Complainant submitted evidence establishing that the Complainant's

condition meets the definition of a physical disability and indicating that the Complainant was medically restricted.

3. The Department's investigation showed that in August 2004, the Respondent approved the Complainant's request for a flexible schedule to avoid rush hour because of an injury to her right ankle by changing the Complainant's schedule to 7:00 a.m. to 3:00 p.m. In June 2007, the Respondent informed the Complainant and other employees that its surveillance unit was relocating to a different location in a building operated by the University of Illinois at Chicago. The new building opened at 7:30 a.m. and closed at 11:00 p.m. During its investigation, the Department discovered that a security guard at the new location initially allowed the Complainant and others to enter the building before 7:30 a.m.

4. The Department's investigation also showed that in October 2007, the security guard told the Complainant and others that they would no longer be allowed to enter the building before 7:30 a.m. In November 2007, the Complainant requested an accommodation for her work schedule to be reinstated to 7:00 a.m. through 3:00 p.m. In May 2008, the Respondent's disability liaison met with the Complainant and informed her that the building could not be opened prior to 7:30 a.m. The disability liaison informed the Complainant of the PACE Paratransit service, which could pick the Complainant up and drop her off at work, but the Complainant refused the service.

5. The Complainant contends that some of her exhibits and evidence were never presented at the fact finding hearing or included in the investigator's report, but the Complainant does not identify the alleged excluded exhibits and evidence in her Request.

6. The Commission's review of the investigation file leads it to conclude that the Department properly dismissed the Complainant's charge because the Respondent showed that the requested accommodation would be unduly burdensome on the Respondent. Once an employee requests an accommodation, the burden is on the employer to show that the accommodation is impossible or would be prohibitively expensive or would disrupt the conduct of business. 56 Ill. Adm. Code § 2500.40(d). The Respondent articulated that it denied the Complainant's request for an accommodation because the building did not open until 7:30 a.m., the security guard did not open the building's door until 7:30 a.m., and no supervisor was on duty at 7:30 a.m. The investigation file shows that the security guard was not an employee of Respondent and the work building was not operated or controlled by the Respondent.

7. Further, the Commission's review of the investigation file showed that the Respondent attempted to accommodate the Complainant by recommending that she use the PACE Paratransit service, but the Complainant would not accept that accommodation. The Respondent did accommodate the Complainant's request to start work at 7:00 a.m. when it was feasible; however, when the unit relocated, it was no longer feasible to accommodate the Complainant's request. Additionally, the Act does not require the Respondent to accommodate the Complainant in her commuting problems. *See* Owens v. Dep't of Human Rights, 356 Ill.App.3d 46, 55-6 (1st Dist. 2005). To require the Respondent to accommodate the Complainant in the manner that

she requests would be unreasonable where the difficulties essentially revolve around the Complainant's commute, the Respondent does not operate or control the building, and the Respondent does not control the security guard.

8. The Commission's review of the investigation file found no evidence that the Respondent failed to accommodate the Complainant because of her disability.

9. Accordingly, it is the Commission's decision that the Complainant has not presented any evidence to show that the Department's dismissal of her charge was not in accordance with the Act. The Complainant's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of the Complainant's charge is hereby **SUSTAINED.**

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Respondent City of Chicago, Department of Public Health as appellees, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS)
) Entered this 28th day of January 2009.
HUMAN RIGHTS COMMISSION)

Commissioner Sakhawat Hussain

Commissioner Spencer Leak, Sr.

Commissioner Rozanne Ronen