

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2008CH3437
)	HUD NO.: 05-08-1148-8
DOROTHY TERRY,)	ALS NO.: 08-0471
)	
Complainant.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Munir Muhammad, Greg Simoncini and Diane Viverito, presiding, upon the Complainant's Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Department") of Charge No. 2008CH3437, Dorothy Terry, Complainant, and Lincoln Property Company, Respondent; and the Commission having reviewed *de novo* the Department's investigation file, including the Investigation 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 upon 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. The Complainant filed an unperfected charge of discrimination with the Department on May 29, 2008, perfected on June 24, 2008, alleging that the Respondent subjected her to discriminatory terms and conditions because of her race, in violation of Section 3-102(B) of the Illinois Human Rights Act (the "Act"). The Department dismissed the Complainant's charge on October 21, 2008, for lack of substantial evidence. The Complainant thereafter filed a timely request for review on November 5, 2008.
2. The undisputed evidence in the investigation file shows that the Complainant had been a tenant of the Respondent since April 2006. On April 21, 2008, the Complainant served the Respondent with a 30-day notice of her intent to vacate the Respondent's premises.

3. In May of 2008, the Respondent sent the Complainant a notice which informed her that the Complainant's downstairs neighbor had complained about the Complainant making excessive noise. The Respondent's notice advised the Complainant to keep the noise down so as not to disturb her neighbors.

4. The Complainant alleged in her charge that the May 2008 notice of the noise complaint was racially discriminatory because, the Complainant alleged, the Respondent ignored her complaints about an upstairs white neighbor's excessive noise. The Complainant further alleged that the Respondent did not issue noise violation notices to white tenants.

5. The Department's investigation revealed that the Complainant had made several noise violation complaints about her upstairs neighbor, the final one being on or about January 7, 2008. The investigation further showed that the Respondent did in fact send a violation notice to the Complainant's upstairs neighbor. Finally, the Department determined that the Complainant's upstairs neighbor was not white, as she had alleged in her charge.

6. In the course of the Department's investigation the Complainant admitted or did not present any evidence to dispute the following: **(a)** That she did not actually know the race of her downstairs neighbor, **(b)** That her upstairs neighbor was black, not white, as she had alleged in her charge, and **(c)** That the Respondent has issued noise violation notices to both black and white tenants.

7. However, in her Request, the Complainant again asserts that her upstairs neighbor was not issued a noise violation notice when he engaged in excessive noise. The Complainant further raises for the first time in her Request other issues that were not previously alleged in her charge: **(a)** That the Respondent failed to accommodate her disability (Fibromyalgia); **(b)** That the Respondent did not take steps to protect the Complainant or her daughter from an alleged criminal sexual offender who resided in the Respondent's building, and **(c)** That the Respondent charged the Complainant an additional \$ 107.00 in rent when she renewed her lease.

8. The Commission's review of the Department's investigation file leads it to conclude that the Department properly dismissed the Complainant's charge of discrimination for lack of substantial evidence.

9. The evidence in the file shows that the Complainant is unable to establish a *prima facie* case of discrimination. Specifically, the undisputed evidence in the file demonstrates that the Respondent took action on complaints made by both its white and black tenants. There is no evidence that the Respondent ignored noise complaints made by black tenants. Further, it has been established by the evidence in the file that the Respondent did act on the Complainant's complaints about her upstairs neighbor by serving him with notice of a noise violation. There is simply no evidence in the record to support the Complainant's contention, raised again in her Request, that the Respondent did not act on her noise complaints because of her race.

10. Further, as to the new allegations raised by the Complainant for the first time in her Request, on a request for review, the Commission only has jurisdiction to review the

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Department's decision to dismiss those charges or allegations that were before the Department. The Commission does not have jurisdiction to review new allegations or charges of discrimination raised for the first time in a request for review. See 775 ILCS 8-103 (2008). Therefore, the Commission can make no determination regarding the Complainant's new allegations of discrimination raised for the first time in her Request.

11. 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 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 the Respondent Lincoln Property Company, as appellees, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

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)
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Entered this 18th day of February 2009.

Commissioner Munir Muhammad

Commissioner Greg Simoncini

Commissioner Diane Viverito