STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST:	)	
FOR REVIEW BY:	)	CHARGE NO.: 2008CA2759
	)	EEOC NO.: 21BA81621
MONA EL-HARAZIN,	)	HUD NO.: N/A
	)	ALS NO.: 09-0130
Complainant.	)	

ORDER

This matter coming before the Commission by a panel of two, Commissioners Sakhawat Hussain, M.D. and Rozanne Ronen presiding, upon Complainant's Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Department") of Charge No. 2008CA2759, Mona El-Harazin, Complainant, and Waste Management, 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 Complainant's Reply to the Department's response; 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 April 8, 2008, the Complainant filed a charge of discrimination with the Department, in which she alleged that the Respondent harassed her and issued her a written disciplinary warning because of her national origin (Lebanon) and age (56), in violation of § 2-102(A) of the Illinois Human Rights Act ("Act"). On February 23, 2009, the Department dismissed the Complainant's charge for lack of substantial evidence. On March 30, 2009, the Complainant filed a timely request for review.

2. The Department's investigation revealed that the Complainant was employed as a senior billing representative with the Respondent. Prior to January 18, 2008, the Respondent had a dress code policy in effect that required acceptable business attire without specifically providing examples of what types of clothing were appropriate. On January 18, 2008, the Respondent updated its dress code policy,

specifically banning employees from wearing velour jogging suits and flip-flop shoes, among other clothing items, at work.

3. On November 8, 2008, the Respondent issued a written Clarification of Expectations to the Complainant, stating that the Complainant needed to stop wearing flip-flop shoes to work. The Clarification of Expectations further indicated that the Complainant needed to bring a doctor's note if she was medically required to wear flip-flop shoes to work. The Clarification of Expectations indicated that the situation was resolved because the Complainant found a pair of comfortable and acceptable shoes to wear to work.

4. On January 31, 2008, the Respondent issued a Written Warning to the Complainant. The Written Warning indicated that a disagreement arose between the Complainant and the Respondent's management over whether the Complainant's Friday attire, including a velour jogging suit, was appropriate work attire. The Complainant told the Respondent that she could not wear jeans on Friday because of a medical procedure and believed that the velour jogging suit was appropriate. The Respondent replied that it was not necessary to wear jeans on Fridays. The Written Warning also addressed incidents where the Complainant was alleged to have lacked professionalism at work and requested the Complainant's immediate and sustained performance improvement.

5. In her charge of discrimination, the Complainant alleges that the Respondent harassed her because of her national origin and age. The Complainant argues that she was harassed when her supervisor told her that she could not wear flip-flop shoes to work, asked her what she was doing and where she was going, followed her around, and accused her of "yelling" in e-mails when writing in all capitalized letters. She also alleges that a manager of the Respondent harassed her because of her national origin and age by telling her that she violated the Respondent's dress code, was a bad worker, and was unprofessional in the workplace. The Complainant also alleges that the Respondent issued the Written Warning because of her national origin and age.

6. During the Department's investigation, the Respondent articulated that it did not harass the Complainant because of her age or national origin. Rather, the Respondent states that it was performing its legitimate supervisory duties. Further, the Respondent articulated that the Complainant was issued the Written Warning because of her failure to comply with the Respondent's dress code and her uncooperative attitude.

7. In her Request and Reply, the Complainant alleges that she was singled out by her supervisor and her manager for harassment and discipline about her work, her professionalism, and her attire. The Complainant also contends that she presented evidence that comparable younger, non-Lebanese employees violated the Respondent's dress code but were not disciplined. The Complainant also argues that there remain disputed facts which require resolution by a fact-finder.

8. The Commission's review of the investigation file leads it to conclude that the Department properly dismissed the Complainant's charge because there is no

substantial evidence that the Respondent's articulated non-discriminatory reasons for its actions are pretext for unlawful discrimination. If no substantial evidence of discrimination exists after the Department's investigation of a charge, the charge must be dismissed. *See* 775 ILCS 5/7A-102(D)(2008).

9. The Complainant contends that non-Lebanese, younger staff members wore "Night Club" clothing to work, but did not receive any reprimands for violating the dress code. The Complainant, however, provides no description or evidence of how the "Night Club" clothing violated the Respondent's dress code policy.

10. There is simply no evidence that the reprimands and discipline that the Complainant received from the Respondent were related to her age or national origin.

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 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, Waste Management, 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 17th day of June 2009.
HUMAN RIGHTS COMMISSION)

Commissioner Sakhawat Hussain, M.D.

Commissioner Rozanne Ronen