STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST:	)	
FOR REVIEW BY:	)	CHARGE NO.: 2009CH1265
	)	ALS NO.: 09-0138
	)	HUD NO.: 050901058
CAROL WISE,	)	
Complainant.	)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Marti Baricevic, Robert S. Enriquez, and Gregory Simoncini 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. 2009CH1265, Carol Wise, Complainant, and Timothy Carey and Hawthorne Race Course, Inc., Respondents; 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 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. The Complainant filed an unperfected charge of discrimination with the Department on October 23, 2008, perfected on October 31, 2008, in which she alleged that the Respondents subjected her to discriminatory terms, conditions, privileges, or services and facilities due to her race and age, in violation of Section 3-102(B) of the Illinois Human Rights Act (the "Act"). The Department dismissed the Complainant's charge on March 9, 2009, after finding that there was no substantial evidence of discrimination. The Complainant thereafter filed a timely Request on March 30, 2009.

2. The undisputed evidence in the investigation file shows that the Complainant is a Caucasian woman of approximately 73 years of age. She had resided in an apartment complex in Cicero, Illinois for 48 years. The complex used to be owned by the National Jockey Club. In March of 2007, the Respondents purchased the complex and assumed ownership of the complex.

3. In February of 2008, the Respondents entered into an agreement with the Illinois Thoroughbred Horseman's Association ("ITHA") to provide the Respondents'

backstretch workers with sleeping quarters. As of February 2008, the Complainant was the only tenant in the complex who was not in the racetrack business.

4. On February 28, 2008, the Respondents served the Complainant with a Notice of Termination of Tenancy, which was to be effective March 31, 2008. Thereafter, one of the Respondents' backstretch workers would move into the apartment. Notice was served on the Complainant via certified mail, although the Complainant denied receiving the notice.

5. On April 1, 2008, the Respondents filed a complaint in the Circuit Court of Cook County for possession of the Complainant's apartment. On April 28, 2008, the Circuit Court entered an Order of Possession, which allowed the Respondents to gain possession of the premises on May 19, 2008. The Complainant denied receiving notice of the Circuit Court proceedings.

6. The Complainant alleged in her charge that on June 25, 2008, the Respondents locked her out of her apartment and evicted her without prior notice, and that her eviction was based on her race and age. The Complainant alleged that the majority of the residents of the complex were all younger than her, and that she was the only Caucasian who resided in the complex. The Complainant further alleged that once she was evicted from her apartment, the Respondents refused to return her personal property.

7. In her Request, the Complainant states that the Respondents would not let her into her apartment to retrieve her belongings because they were afraid that she would not leave, that she was the only senior citizen and Caucasian in the complex, and that the Respondents made false statements.

8. The Commission's review of the Department's investigation file leads it to conclude that the Department properly dismissed the Complainant's charge for lack of substantial evidence because the Complainant did not establish a *prima facie* case of age and race discrimination.

9. In order to establish a *prima facie* case of age and race discrimination under Section 3-102(B) of the Act, the Complainant most present evidence which demonstrates: (1) that she is a member of a protected class; (2) that she is a tenant in good standing; (3) that the Respondents altered the terms, conditions or privileges of her real estate transaction, and (4) that the Respondents treated a similarly situated tenant more favorably under similar circumstances. *See generally* Turner v. Human Rights Commission, 177 Ill.App.3d 476, 488, 532 N.E.2d 392, 399 (1st Dist. 1988).

10. In the instant case, the Commission finds that the Complainant failed to identify a similarly situated tenant who was treated more favorably under similar circumstances. The evidence establishes that the Respondents were required to house one of its backstretch workers, pursuant to its Agreement with the ITHA. The evidence establishes that the Complainant occupied the only apartment in the complex that was not already occupied by one of the Respondents' employees. The Complainant did not identify another similarly situated tenant in the complex who did not work for the Respondents, and who was younger and non-Caucasian, that the Respondents could have evicted instead of her.

11. The Complainant has not provided any additional evidence to suggest that the Respondents initiated eviction proceedings against her for any reason other than their obligation to fulfill their contractual obligations.

12. 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 Respondents Timothy Carey and Hawthorne Race Course, as appellees, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS)
)
HUMAN RIGHTS COMMISSION) Entered this 23rd day of June 2009.

Commissioner Marti Baricevic

Commissioner Robert S. Enriquez

Commissioner Gregory Simoncini