STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST:	)	
FOR REVIEW BY:	)	CHARGE NO.: 2008CF2556
	)	EEOC NO.: 21BA81453
MICHELLE BILLS,	)	HUD NO.: N/A
	)	ALS NO.: 09-0170
Complainant.	)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Marti Baricevic, Robert S. Enriquez, and Greg Simoncini presiding, upon Complainant's Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Department") of Charge No. 2008CF2556, Michelle Bills, Complainant, and Cook County Recorder of Deeds, Respondent; and the Commission having reviewed *de novo* the Department's investigation file, including the Investigation Report and the Complainant's Request, 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 March 19, 2008, the Complainant filed a charge of discrimination with the Department, in which she alleged that the Respondent subjected her to sexual harassment, in violation of § 2-102(D) of the Illinois Human Rights Act ("Act"). On November 25, 2008, the Department dismissed the Complainant's charge for lack of substantial evidence. On December 29, 2008, the Complainant filed her first timely request for review. Because the Department did not oppose the Complainant's first request for review, the Commission entered an order remanding the charge for further investigation on February 2, 2009. On March 13, 2009, the Department again dismissed the Complainant's charge for lack of substantial evidence. On April 15, 2009, the Complainant filed this timely Request.

2. The Department's investigation revealed that the Complainant is employed by the Respondent as a Clerk in the Mail Review and Returns section.

3. In her charge of discrimination, the Complainant alleged that from September 21, 2007 to March 17, 2008, the Respondent subjected her to sexual harassment in that it allowed a co-worker, Joey Adams ("Adams"), to repeatedly make offensive remarks and gestures. The

Complainant further alleged that Adams's conduct created a hostile work environment, substantially interfering with her ability to perform her job.

4. The Complainant reported the incidents of sexual harassment to the Respondent on March 17, 2008. The Respondent immediately conducted an investigation and disciplined Adams by giving him a warning and a three-day suspension. Thereafter, the Complainant did not report any further incidents of harassment by Adams.

5. The Department's investigation revealed that the Respondent denied subjecting the Complainant to sexual harassment and denied knowledge that Adams was sexually harassing the Complainant prior to March 17, 2008.

6. The Department's investigation showed that from September 21, 2007 through March 17, 2008, Adams continually told Complainant that he liked her and made several sexual remarks towards the Complainant. Additionally, Adams looked at the Complainant in a sexually offensive manner.

7. The Department's investigation showed that the Respondent had previously given Adams a verbal reprimand after receiving verbal complaints against Adams from three female co-workers, which the Respondent did not memorialize in writing. After an investigation into the female co-workers' complaints, the Respondent found that the incidents consisted of nonsexual "horseplay." The Department investigator contacted each of the three co-workers, two of whom denied that Adams bothered them; the third denied reporting Adams's behavior.

8. In her Request, the Complainant alleges that the Respondent was aware of Adams's continuous sexual harassment of the Complainant because of the alleged complaints against Adams made by the other three female co-workers. The Complainant contends that the Department investigator was biased in favor of the Respondent. Also, the Complainant alleges for the first time in her Request that the Respondent retaliated against her because she filed her charge of discrimination.

9. The Commission's review of the investigation file leads it to conclude that the Department properly dismissed the Complainant's charge because the Complainant provides no evidence that the Respondent was aware or had notice, prior to March 17, 2008, that Adams was sexually harassing her. The Complainant further provides no substantial evidence that the Respondent failed to take reasonable corrective measures once it was made aware of the sexual harassment. 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).

10. The evidence in the investigation file supports the Department's dismissal. A Respondent can only be liable for a co-worker's acts of sexual harassment if the Respondent fails to take reasonable corrective measures once it is made aware of the conduct. 775 ILCS 5/2-102(D). Here, as soon as the Complainant made the Respondent aware of Adams's conduct, it took reasonable corrective measures by giving Adams a written warning and a three-day suspension. It is uncontested that after the Respondent reprimanded Adams, Adams stopped his harassment of the Complainant. There is no evidence in the investigation file indicating that the Respondent was aware that Adams had been harassing the Complainant prior to the date that the Complainant actually reported the sexual harassment to the Respondent.

11. The charge of discrimination that the Complainant reviewed, signed, and dated does not contain an allegation that the Respondent retaliated against her because of her participation in a protected activity. On a request for review, the Commission only has statutory authority to review the Department's decision to dismiss those charges or allegations that were before the Department. The Commission does not have statutory authority to review new allegations or charges of discrimination raised for the first time in a request for review. *See* 775 ILCS 5/8-103. Therefore, the Commission makes no determination regarding the Complainant's new allegation that she may have been retaliated against by the Respondent.

12. The Commission's review of the investigation file indicates that the Department's investigation was conducted in a neutral manner and followed the established Department investigation procedures.

13. 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 the Respondent, Cook County Recorder of Deeds, 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 22nd day of July 2009.
HUMAN RIGHTS COMMISSION)

Commissioner Marti Baricevic

Commissioner Robert S. Enriquez

Commissioner Greg Simoncini