

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2008SF3395
)	EEOC NO.: 21BA82140
ROBIN L. BEAVERS,)	HUD NO.: N/A
)	ALS NO.: 09-0226
Complainant.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners David Chang, Marylee V. Freeman, and Yonnie Stroger presiding, upon Complainant's Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Department") of Charge No. 2008SF3395, Robin L. Beavers, Complainant, and State of Illinois - Department of Human Services, Warren G. Murray Developmental Center, 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 JURISDICTION

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

1. On May 28, 2008, the Complainant filed a charge of discrimination with the Department, in which she alleged that the Respondent subjected her to unequal terms and conditions of employment (Count A), failed to accommodate her physical disability (epilepsy seizure disorder) (Count B), and discharged her because of her physical disability (Count C), in violation of § 2-102(A) of the Illinois Human Rights Act ("Act"). On April 3, 2009, the Department dismissed the Complainant's charge for lack of jurisdiction. On May 4, 2009, the Complainant filed a timely request for review.

2. The Department's investigation revealed that the Complainant was involved in a motor vehicle accident in 1983, which has caused the Complainant to suffer her present condition of epilepsy seizure disorder. The Complainant's epilepsy seizure disorder can be exacerbated by long work hours.

3. In applying for a position as a Mental Health Technician Trainee I with the Respondent, the Complainant completed a Willingness and Ability Statement ("WAS") on August 23, 2007. The WAS stated that in order to receive an offer for the position, the applicant must be willing and physically capable to meet the needs of individuals with disabilities. The WAS further

asked candidates if they were willing and physically able to: work any shift as assigned, including any days, weekends, or holidays, to provide care and training for disabled individuals; work unplanned, mandatory overtime, including double shifts or unscheduled weekend shifts, to provide care and training for disabled individuals; and accept rotating work assignments between any unit or living area as directed to ensure the care and training of disabled individuals. The Complainant answered in the affirmative to each of the three questions, indicating that she was willing and physically able to do them.

4. On February 19, 2008, the Complainant was hired by the Respondent to the Medical Health Technician Trainee I position and was a probationary employee. She signed an agreement, containing a Work Schedule, wherein the Complainant certified that she was willing to work any shift and any days of the week to which she may be assigned and that she was willing and able to work overtime as required or mandated.

5. On April 1, 2008, the Complainant presented her supervisor with a doctor's note indicating that she should only work Monday through Friday for no more than eight hours a day. The supervisor presented the note to the Human Resources representative, Lori Beckmann ("Beckmann"). Beckmann inquired about the onset of the Complainant's condition and the Complainant indicated that she has had the condition since she was 18. The Respondent then discharged the Complainant for having falsified her employment documents.

6. In her Request, the Complainant states that she is disabled within the meaning of the Act and that the Respondent was aware of her disability as of April 1, 2008. The Complainant requests that the Commission sustain the dismissal of Count A, and review the Department's dismissal of Count B and Count C.

7. Since the Complainant does not request review of the Department's dismissal of Count A of her charge, the Commission sustains the dismissal of Count A without review.

8. In reviewing the Department's dismissal of Count B and Count C, the Commission found no evidence that the Complainant's medical condition constitutes a disability within the meaning of the Act. The Act defines disability as "a determinable physical or mental characteristic of a person [...] unrelated to the person's ability to perform the duties of a particular job or position." 775 ILCS 5/1-103(l).

9. Prior to beginning work with the Respondent, the Respondent made quite clear to the Complainant that she must be willing and physically able to work overtime, double-shifts, and weekend shifts if necessary. In the document that the Complainant submitted to the Respondent, her doctor stated that the Complainant could not work double shifts and requested that the Complainant be provided a five-day work week. According to the Complainant's doctor, she was unable to perform the duties of her Mental Health Technician Trainee I job. Thus, the Complainant is not "disabled" within the meaning of the Act and the Department had no statutory authority to investigate the Complainant's allegations that the Respondent failed to accommodate her or discharged her because of her disability. Thus, the Department's dismissal of Count B and Count C are also sustained.

10. 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 State of Illinois - Department of Human Services, Warren G. Murray Developmental Center, as appellees, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS)
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HUMAN RIGHTS COMMISSION)

Entered this 12th day of August 2009.

Commissioner David Chang

Commissioner Marylee V. Freeman

Commissioner Yonnie Stroger