STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: 2009CH1457
	)	HUD NO.: 050901678
JOAN FLOWERS,	)	ALS NO.: 09-0239
	)	
Complainant.	)	

ORDER

This matter coming before the Commission by a panel of two, Commissioners 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. 2009CH1457, Joan Flowers, Complainant, and A & E Management Corporation, 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 grounds:

LACK OF SUBSTANTIAL EVIDENCE and LACK OF JURISDICTION

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

1. The Complainant filed an unperfected multi-count charge of discrimination with the Department on November 4, 2008, perfected on November 19, 2008, against the Respondent, A & E Management Corporation. The Complainant alleged that she was subjected to discriminatory terms, conditions, privileges, or services and facilities because of her race (Black), her sex (female), and her physical disability (visual impairment), in violation of Section 3-102(B) of the Illinois Human Rights Act (the "Act"). On April 10, 2009, the Department dismissed Counts A, B and C of the Complainant's charge based on a finding that it lacked jurisdiction over those allegations, and it dismissed Counts D, E,F, G, and H of the charge based on finding a lack of substantial evidence of a violation of the Act. The Complainant thereafter filed a timely Request on May 13, 2009.

2. The uncontested facts in the file show that at the time of the incidents alleged in the charge, the Complainant was a tenant in an apartment building ("the Subject Property") that was owned by the Respondent.

3. Tina Ivanovic ("Tina") was the Respondent's owner and property manager for the Subject Property. Tina has a son named Eddie Ivanovic ("Eddie").

4. There are 45 apartment units in the Subject Property. Of those 45, 4 units are rented to individuals who participate in the Chicago Housing Choice Voucher Program, referred to as "CHAC." The Complainant participated in the CHAC program and was a voucher holder while she was a tenant at the Subject Property.

5. In her charge, the Complainant alleged that: **(i)** On or about December 2, 2006, Eddie made sexual advances toward her (Count A); **(ii)** Sometime in 2004 a tenant attacked her, and in 2006 this same tenant harassed her until the tenant moved out of the Subject Property in April of 2007 (Count B); **(iii)** On January 22, 2007, the Respondent sent the Complainant a Notice that it was terminating her tenancy because of all of her complaints (Count C); **(iv)** On March 31, 2008, her unit failed an inspection (Count D); **(v)** On April 1, 2008, one of Respondent's maintenance workers kissed her and made sexual advances on her, and suggested that she and he "get together", and she told Tina about the incident but nothing was done (Count E); **(vi)** The Respondent would not take her phone calls (Count F); **(vii)** The Respondent would not provide her with a copy of her current lease (Count G), and **(viii)** On November 11, 2008, Tina called the Complainant a vulgar name, stated that Eddie would not have made any advances toward the Complainant, and that the Complainant had no rights (Count H). The Complainant alleged that all of these actions were motivated by her race, sex and disability.

6. The Respondent was aware of the Complainant's race and sex. There is no evidence that the Complainant had ever made the Respondent aware of her physical disability.

7. The Complainant agreed with the Respondent's assessment that over 90% of the tenants in the Subject Property were Black. It is uncontested that over 50% of the tenants in the Subject Property were female. The Complainant also stated that she had no knowledge of how the Respondent treated non-Black, non-female and non-disabled tenants.

8. CHAC was required to conduct inspections of the premises of its voucher holders. On March 15, 2008, CHAC sent a notice to the Complainant and the Respondent which indicated that her apartment had failed a CHAC inspection because of a leak in her ceiling. The notice indicated that the Complainant's unit would be reinspected on April 1, 2008.

9. On April 7, 2008, the Complainant was sent a letter from CHAC which informed her that her unit had passed the reinspection.

10. In her Request, the Complainant reiterates the allegations of her charge, and also contends that her other neighbors disturbed and harassed her, that there was a drug

dealer living on the Subject Property, and that she had called the police regarding the alleged sexual harassment.

11. In its response, the Department argues that it lacked jurisdiction over Counts A, B and C, because her charge was not filed within 365 days of the incidents alleged in those Counts, as required by Section 7B-102(A) of the Act. *See* 775 ILCS 5/7B-102(A) (2009). As to Counts D, E, F, G, and H, the Department argues that there is no substantial evidence of discrimination.

12. 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 jurisdiction and lack of substantial evidence.

13. As to Counts A, B, and C, the Complainant alleges incidents that took place between December 2, 2006 and April 2007. The Complainant did not file her charge until November 4, 2008. The Complainant did not file her charge within 365 days of any of the incidents alleged in Counts A, B and C of the charge. Therefore, the Department correctly determined that it lacked subject matter jurisdiction over those allegations, and its dismissal of Counts A, B and C of the charge is sustained.

14. As to the remaining Counts of the charge, the Commission agrees that the Complainant has failed to present any evidence of a violation of the Act. Specifically, even assuming that each incident alleged in Counts D, E, F, G, and H occurred, the Complainant has not presented any evidence whatsoever that the Respondent was motivated by the Complainant's race, sex or disability. The Complainant admits that she has no evidence that the Respondent treated similarly situated non-Black, non-female and non-disabled tenants more favorably under similar circumstances.

15. Furthermore, as to the allegation in Count E, wherein she alleges that a maintenance man made a sexual advance on her on one occasion, the Complainant has not presented substantial evidence of a violation of the Act because there is no evidence that she was deprived of her tenancy or a substantial benefit of her tenancy as a result of her having rejected the maintenance man's advances. *See* Szkoda v. Illinois Human Rights Com'n, 302 Ill.App.3d 532, 541, 706 N.E.2d 962, 969 (1st Dist. 1998). The file further shows that after she rejected the maintenance man's advances on that occasion, he made no further advances on her.

16. The Complainant has not presented any additional evidence that would demonstrate substantial evidence of a violation of the Act.

17. 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, A & E Management Corporation, 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 12th day of August 2009.

Commissioner Greg Simoncini

Commissioner Diane Viverito