STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: 2009CH3002
	)	HUD NO.: 050907488
CARRIE HANSON,	)	ALS NO.: 09-0401
	)	
Petitioner.	)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners David Chang, Marylee V. Freeman and Yonnie Stroger presiding, upon Carrie Hanson's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")[1] of Charge No. 2009CH3002; and the Commission having reviewed *de novo* the Respondent's investigation file, including the Investigation Report and the Petitioner's Request, and the Respondent's response to the Petitioner'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 ground:

LACK OF SUBSTANTIAL EVIDENCE

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

1. On March 18, 2009, the Petitioner filed an unperfected charge of discrimination with the Respondent, perfected on April 7, 2009. The Petitioner alleged in her charge that Marla Waddington and JF Rockford Apartments, LLC, d/b/a Harbour East Apartments (referred to collectively as "the Landlords") subjected her to discriminatory terms, conditions, privileges or services and facilities because of her familial status, in violation of Section 3-102(B) of the Illinois Human Rights Act ("Act"), 775 ILCS 5/3-102(B). On June 23, 2009, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On July 27, 2009, the Petitioner filed a timely Request.

2. On or about May 1, 2007, the Landlords and the Petitioner entered into a one-year lease wherein the Petitioner agreed to pay a monthly rent of $1,300 for an apartment unit. The Petitioner and her two teen-aged children thereafter took occupancy of the apartment.

[1] In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

3. The lease expired on August 1, 2008. The Petitioner and her children continued to occupy the apartment on a month to month tenancy.

4. The undisputed evidence in the Respondent's investigation file shows the Petitioner did not pay the rent in full for the months of September, October, November and December 2008. The Petitioner admits she had no agreement with the Landlords to pay a reduced rent during those months.

5. On December 5, 2008, the Landlords sent the Petitioner notice that her tenancy was being terminated due to her failure to make full rental payments between September and December 2008. She was given notice to vacate the premises by January 9, 2009.

6. The Petitioner contends in her charge and in her Request that her tenancy was terminated because she resides with two teen-aged children under the age of 18. She contends similarly situated tenants without children were treated more favorably.

Conclusion

The Commission's review of the Respondent's investigation file leads it to conclude that the Respondent properly dismissed all counts of the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. *See* 775 ILCS 5/7A-102(D).

A *prima facie* case of familial status discrimination requires evidence that: (1) the Petitioner is a member of a protected class; (2) the Petitioner was qualified to engage in a real estate transaction; (3) the Landlord altered the terms, conditions or privileges of the Petitioner's real estate transaction; and (4) the Landlord treated a similarly situated lessee more favorably under similar circumstances. *See* Turner v. Human Rights Commission, 177 Ill.App.3d 476, 532 N.E.2d 392, 399 (1st Dist. 1988). In the Petitioner's case there is insufficient evidence to establish the second and fourth elements of the *prima facie* case.

The Commission finds that the Petitioner was not a qualified lessee in that she failed to make full rental payments to the Landlords. Further, the Petitioner did not provide any evidence of similarly situated tenants without children who did not pay rent in accordance with the terms of a lease, and whose tenancy was not terminated. Additionally, there is no evidence of an animus against families with children because the evidence shows the Landlords leased apartments to other tenants with children.

In the Petitioner's Request, she argues the landlord lied about evicting other tenants. The Petitioner however offers no evidence to substantiate this allegation. Rather, the evidence in the investigation file shows the Landlords evicted three other tenants for non-payment of rent who had no children living with them. The petitioner further argues in her Request that she held back rent due to needed repairs to the apartment, but the Petitioner offers no evidence that a rent reduction was authorized by the Landlords.

Accordingly, it is the Commission's decision that the Petitioner 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 Petitioner'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 Marla Waddington and JF Rockford Apartments, LLC, d/b/a Harbour East Apartments, as Respondents, 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 10th day of February 2010.

Commissioner David Chang

Commissioner Marylee Freeman

Commissioner Yonnie Stroger