STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST FOR REVIEW BY:	)	CHARGE NO.:	2010SH0465
	)	HUD NO.:	05-09-1636-8
YVONNE BAILEY,	)	ALS NO.:	09-0743
	)		
Petitioner.	)		

ORDER

This matter coming before the Commission by a panel of three, Commissioners David Chang, Marylee V. Freeman and Charles E. Box, presiding, upon Yvonne Bailey's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")[1] of Charge No. 2010SH0465; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, WHEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner'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 August 10, 2009, the Petitioner filed an unperfected charge of discrimination with the Respondent, which was perfected on September 10, 2009. The Petitioner alleged in her charge that from June 2005 and continuing through April 20, 2009, Linda Bailey and RichLin Properties, LLC (collectively referred to as "the Landlords") subjected her to unequal terms and conditions of tenancy (Count A) and harassed her (Count B) because of her physical disabilities (equilibrium and back problems, herniated discs and multiple sclerosis) and her mental disability (bi-polar disorder), and also failed to reasonably accommodate her physical and mental disabilities (Count C), in violation of Sections 3-102.1(B), 3-105.1 and 3-102(c)(2) of the Illinois Human Rights Act (the "Act"). On November 25, 2009, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On December 29, 2009 the Petitioner filed this timely Request.

2. The Petitioner leased a unit from the Landlords in Mascoutah, Illinois ("Subject Premises") from July 1, 2005, through June 30, 2009. The Landlords provided the Petitioner with a "Welcome Letter" which informed the Petitioner of her responsibilities as a tenant.

[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 Landlords also owned a commercial building and parking lot directly west of the Subject Premises. Prior to January 30, 2009, tenants of the Subject Premises were permitted to park their vehicles in the commercial building's parking lot when the side entrance of the commercial building was not in use.

4. Shortly after moving into the Subject Premises, the Petitioner made several maintenance requests to the Landlords. The Landlords were either slow in honoring these requests, or the requests were not honored at all.

5. On January 30, 2009, the Landlords gave written notice to all tenants, including the Petitioner, that they were no longer allowed to park in the commercial building's parking lot. Instead, all tenants were assigned a parking spot directly behind the Subject Premises.

6. During her tenancy, the Landlords threatened the Petitioner with eviction on at least two occasions. On July 1, 2007, the Landlords threatened to evict the Petitioner for failing to immediately remove her pet litter, which was one of the tenant responsibilities specified in the Welcome Letter. On March 15, 2009, the Landlords again threatened to evict the Petitioner when she drove her motor vehicle through a neighbor's yard and parked on top of the Landlords' patio overnight.

7. In Count A of her charge, the Petitioner alleged that from June 2005 and continuing through April 20, 2009, the Landlords subjected her to unequal terms and conditions of tenancy because of her physical and mental disabilities when the Landlords ignored her maintenance requests and failed to make timely repairs to her apartment. In Count B, the Petitioner alleged the Landlords harassed her because of her physical and mental disabilities when they threatened her with eviction and refused to allow her to park in the commercial lot next to the Subject Premises. In Count C, the Petitioner alleged the Landlords failed to reasonably accommodate her physical and mental disabilities by denying her requests for a parking space closer to the Subject Premises.

8. In her Request, the Petitioner contends that the Landlords were aware of her disabilities. The Petitioner reiterates that the Landlords did not make repairs to her apartment in a timely fashion. The Petitioner argues that Landlords required her to park behind the Subject Premises despite her request to continue parking in the commercial parking lot next to the Subject Premises. The Petitioner further argues that the Landlords threatened to evict the Petitioner for driving her motor vehicle onto the backyard while the Landlords did not threaten to evict non-disabled persons who had driven onto the backyard.

9. In its Response, the Respondent asks the Commission to sustain its dismissal of all Counts A-C of the Petitioner's charge for Lack of Substantial Evidence. The Respondent argues there is no substantial evidence the Landlords engaged in any conduct demonstrative of a disability animus (Count A), subjected Petitioner to a hostile housing environment because of her

disabilities (Count B) or that the Petitioner submitted a request for a reasonable accommodation (Count C).

CONCLUSION

The Commission concludes 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). Substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion. *See* In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747, 1995 WL 793258, *2 (March 7, 1995).

As to Count A, the Petitioner failed to establish a *prima facie* case that the Landlords subjected her to unequal terms and conditions of tenancy because of her mental and physical disabilities. In order to establish a *prima facie* case of disability discrimination, there must be some evidence that the Complainant was a member of a protected class; that she was a tenant in good standing; that the Landlords altered the terms, conditions, and privileges of the Petitioner's real estate transaction, and that the Landlords treated a similarly situated non-disabled tenant more favorably under similar circumstances. *See* Turner v. Human Rights Commission, 177 Ill.App.3d 476, 488, 532 N.E.2d 392, 399 (1st Dist. 1988). Here, the Petitioner failed to show that the Landlords treated similarly situated tenants more favorably than the Petitioner. Accepting as true the Petitioner's allegations that the Landlords responded poorly or not at all to her maintenance and repair requests, there has been no evidence presented that the Landlords were motivated by the Petitioner's disabilities.

As to Count B, the Petitioner claims that she was subjected to a hostile housing environment arising from the Landlords' threats to evict her in 2007 and 2009. The Commission does not find that two threats to evict the Petitioner because she allegedly violated the rules of her tenancy rise to the level of a hostile housing environment claim under the Act, particularly when there is no evidence the Landlords were motivated by the Petitioner's disabilities.

As to Count C, the Petitioner claims the Landlords failed to accommodate her disabilities by not modifying her parking assignment. Section 3-102.1(c)(2) of the Act makes it a civil rights violation... "to refuse to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling." As part of the Petitioner's *prima facie* case, she must show that she made a request for a reasonable accommodation and that the Landlords failed to make an accommodation that was reasonable and necessary. *See* May and Chicago Transit Authority, 5 Ill. HRC Rep. 144, 158 (1982). Because the Petitioner has failed to provide evidence that she ever requested the Landlords provide her with a reasonable accommodation in the form of a modified parking assignment, the Commission finds no substantial evidence of a violation of Section 3-102.1(c)(2) .

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show that the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner'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, Linda Bailey and RichLin Properties, LLC, 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 14th day of July 2010.

Commissioner David Chang

Commissioner Marylee V. Freeman

Commissioner Charles E. Box