STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST FOR REVIEW BY:	)	CHARGE NO.: 2008CN3824
CHRISTINE POHL,	)	ALS NO.: 09-0364
Petitioner.	)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Sakhawat Hussain, M.D., Spencer Leak, Sr. and Rozanne Ronen, presiding, upon Christine Pohl's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")[1] of Charge No. 2008CN3824; and the Commission having reviewed *de novo* the Respondent's investigation file, including the Investigation Report and the Petitioner's Request and supporting materials, 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 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 March 17, 2008, the Petitioner filed an unperfected charge of discrimination with the Respondent, perfected on August 6, 2008. The Petitioner alleged Accurate Personnel, LLC, a staffing agency (the "Agency"), failed to hire her because of her marital status, single, in violation of Section 2-102(A) of the Illinois Human Rights Act (the "Act"). The Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence on June 10, 2009. On July 14, 2009, the Petitioner filed a timely Request for Review.

2. The undisputed evidence in the investigation file shows the Agency satisfies the temporary and permanent staffing needs of various companies. Lauren H. was a sales representative for the Agency.

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

3. In October 2007, the Petitioner conducted a job search using the Illinois Department of Employment Security ("IDES") Illinois Skills Match website. In so doing, she came across a job posting for a sales position, identified as Job Order Identification No. 349656. Lauren H. was indicated as the contact person, and her e-mail address was provided.

4. On October 22, 2007, the Petitioner sent Lauren H. an e-mail inquiry about sales position No. 349656, and attached her résumé to the e-mail.

5. That same day, Lauren H. responded to the Petitioner, but not to discuss sales position No. 349656. Rather, Lauren H. informed the Petitioner that there might be a prospective international sales position available with an employer in Schaumburg, Illinois (the "Schaumburg Employer"). She told the Petitioner the position would be ideal for someone who was single and who did not have a family because the position would require her to travel for extended periods of time with little or no notice.

6. Later on the same day, Lauren H. e-mailed the Petitioner and asked if she was married or had a family. The Petitioner never answered these questions and never disclosed her marital status. Instead she replied she believed she was a good match for the position and provided a phone number where she could be reached.

7. On October 23, 2007, Lauren H. contacted the Petitioner via e-mail in an attempt to have the Petitioner come to the Agency and complete an application and possibly interview for a position. The Petitioner never completed an application nor came in for an interview.

8. On October 26, 2007, the Agency removed sales position No. 349656 from the IDES Illinois Skills Match website.

9. However, Lauren H. sent two résumés, one of which was the Petitioner's, to the Schaumburg Employer for its consideration for the international sales position. The Schaumburg Employer advised Lauren H. that neither applicant had sufficient experience in its industry. The Schaumburg Employer also told Lauren H. not to send it anymore résumés.

10. On November 13, 2007, the Agency informed the Petitioner the international sales position with the Schaumburg Employer had been put on hold.

11. In her charge and her Request, the Petitioner alleges the Agency denied her employment to the international sales position because of her marital status, single, even though Lauren H. stated the position would be ideal for a single person without a family.

Conclusion

The Commission's review of the Respondent's investigation file leads it to conclude that the Respondent properly dismissed 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).

In order to establish a *prima facie* case of discrimination the Petitioner must show: (1) that she falls within a protected class; (2) she was qualified for the job; (3) she was subjected to an adverse action; and (4) the employer treated a similarly situated employee outside the Petitioner's protected class more favorably under similar circumstances. *See* Marinelli v. Human Rights Commission, 262 Ill.App.2d 247, 634 N.E.2d 463 (2nd Dist. 1994). In this case, there is no substantial evidence of a *prima facie* case of discrimination because there is no evidence the Agency subjected the Petitioner to an adverse action.

The undisputed evidence shows that the Agency is in the business of providing permanent and temporary staffing to prospective employers. The Petitioner sought a position with an employer other than the Agency. The Agency could only forward the Petitioner's résumé to prospective employers, such as the Schaumburg Employer, and had no authority to hire her for the international sales position. The Agency did in fact forward her résumé to the Schaumburg Employer for its consideration. There is no evidence in the file that the Agency had any control over the Schaumburg Employer's ultimate hiring decision

Further, there is no evidence the Agency had knowledge of the Petitioner's marital status. By the Petitioner's own admission she never disclosed her marital status to the Agency. Also, according to the Petitioner's own statements, Lauren H., believed that a single person would be *best* for the international sales position, which makes it unlikely adverse action had been taken against the Petitioner because she was single.

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, and

Accurate Personnel, LLC., as Respondents, 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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Entered this 27th day of January 2010.

Commissioner Sakhawat Hussain, M.D.

Commissioner Spencer Leak, Sr.

Commissioner Rozanne Ronen