

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2009CH2188
)	HUD NO.: 05-09-0469-8
KEIYA MONTICELLO,)	ALS NO.: 10-0124
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Sakhawat Hussain, M.D., Spencer Leak, Sr., and Diane M. Viverito presiding, upon Keiya Monticello's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")^[1] of Charge No. 2009CH2188; 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, **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:

1. The Petitioner filed a charge of discrimination with the Respondent on January 6, 2009, perfected on February 20, 2009. The Petitioner alleged that BBM Enterprises ("Landlord") failed to reasonably accommodate her physical disabilities (immobility impairment, psoriasis, associated psoriatic arthritis, and chronic pain), and mental disabilities (posttraumatic stress disorder and social anxiety panic attacks in social situations), in violation of Section 3-102.1(C)(2) of the Illinois Human Rights Act ("Act"). On January 25, 2010, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On February 18, 2010, the Petitioner filed this timely Request.
2. The Petitioner leased a residential unit in the Landlord's property in Evanston, Illinois (the "Subject Property"). The Petitioner and her caregiver began residing at the Subject Property in November 2008.
3. On November 26, 2008, and in early December 2008, the Petitioner and her caregiver requested that the Landlord provide them with a disabled parking spot in the parking lot on the Subject Property.
4. The Landlord stated it offered to provide the Petitioner with disabled parking in November 2008 and December 2008 for a monthly fee of \$ 30. The Landlord stated that all tenants who

^[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."

parked in its parking lot were charged \$30 per month. The Landlord provided evidence to the Respondent that all tenants assigned a parking space in its parking lot paid \$30 per month.

5. The Petitioner's caregiver declined the Landlord's offer. The caregiver stated neither he nor the Petitioner could pay the \$ 30 per month parking fee.
6. In her charge, the Petitioner alleged the Landlord refused her requests for reasonable accommodations in November 2008 and December 2008, when the Landlord did not provide her with a disabled parking spot. The Petitioner alleged that on December 16 2008, the Petitioner's caregiver provided the Landlord with a note from the Petitioner's physician which stated the Petitioner needed a disabled parking space.
7. In her Request, the Petitioner argues that the Landlord was aware of her disabilities. The Petitioner argues that street parking was inadequate because the distance from the street to the front door of the Subject Property was too great. The Petitioner contends that Section 504 of the Fair Housing Act permits the disabled to ask for reasonable accommodations, such as free parking. The Petitioner further states that she did not ask for free parking. Rather, she asked for a disabled parking space.
8. In its Response, the Respondent asks the Commission to sustain the dismissal of the Petitioner's charge for lack of substantial evidence.

Conclusion

The Commission concludes 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). 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).

The Petitioner has the burden to show the requested accommodation was reasonable or necessary to afford the Petitioner the equal opportunity to use and enjoy her dwelling. See Oconomowoc Residential Programs, Inc. v. City of Milwaukee, 300 F.3d 775, 783 (7th Cir. 2002).

In this case, it appears the Landlord offered the Petitioner a disabled parking space on the Subject Property for a fee of \$ 30 per month. There is no evidence the Petitioner requested the Landlord provide her with a free disabled parking spot as an accommodation for her disabilities.

In her Request, the Petitioner asserts that under Federal law, she would have been entitled to free parking. However, the Commission is not empowered to enforce Federal law.

Further, the Petitioner goes on to state in her Request that she was not asking the Landlord for free parking. If that is the case, then it appears the Petitioner would have received the parking spot she requested if she had paid the requisite \$ 30 per month parking fee.

Therefore, in light of the evidence that the Petitioner's failure to receive a disabled parking spot was due to her refusal to pay the Landlord's \$ 30 per month parking fee, the Commission finds no substantial evidence the Landlord violated the Act.

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

WHEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of the 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 BBM Enterprises, 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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HUMAN RIGHTS COMMISSION

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Entered this 22nd day of September 2010

Commissioner Sakhawat Hussain, M.D.

Commissioner Spencer Leak, Sr.

Commissioner Diane M. Viverito