

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2009CH0816
)	HUD NO.: 05-08-1867-8
MICHELE PETERSON)	ALS NO.: 09-0374
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of two, Commissioners Munir Muhammad and Nabi Fakroddin presiding, upon Michele Peterson’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Department of Human Rights (“Respondent”)¹ of Charge No. 2009CH0816; 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 findings of fact and reasons:

1. On September 16, 2008, the Petitioner filed a charge of discrimination with the Respondent. The charge was perfected on November 7, 2008. The Petitioner alleged RMK Management Corporation and Northern Crossing JV, LLC (collectively referred to as “the Landlord”) subjected her to discriminatory terms, conditions, privileges, or services and facilities because of the Petitioner’s mental disability, schizophrenia, in violation of Section 3-102(B) of the Illinois Human Rights Act (the “Act”). On July 9, 2009, the Respondent dismissed the Petitioner’s charge for Lack of Substantial Evidence. On July 16, 2009, the Petitioner timely filed her Request.
2. On September 1, 2007, the Petitioner entered into a residential lease with the Landlord for the period of September 1, 2007 through September 30, 2008.
3. During her tenancy, the Petitioner made numerous calls to the Waukegan Police Department (“the Police”) in order to complain about her upstairs neighbor and other building-related issues.

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.”

4. The Police generated a summary of the calls made to it from the Petitioner's apartment on its "call run" document.
5. According to the call run, between October 2, 2007, and July 20, 2008, the Petitioner made 17 calls to the Police to report various incidents. The incidents were described on the call run in a column labeled "incident type."
6. On April 14, 2008, June 8, 2008, and June 24, 2008, the "incident type" was described as "Mental."
7. The call run contains no explanation of what is meant by use of the word "Mental." The call run provides no information on who decided to classify the incident type as "Mental."
8. During her tenancy, the Petitioner also complained to the Landlord about the Petitioner's neighbors, the Petitioner's apartment, and the building grounds.
9. On August 21, 2008, the Landlord sent the Petitioner notice that it would not be renewing her lease.
10. On August 22, 2008, the Petitioner sent the Landlord an e-mail in which she asked the Landlord to reconsider its decision not to renew her lease and to take into consideration her "health issues." The Petitioner did not specify the nature of her health issues.
11. On October 1, 2008, upon request of the Petitioner's son, the Landlord agreed to extend the Petitioner's lease through October 31, 2008.
12. In her charge, the Petitioner alleged the Landlord had failed to respond to her numerous complaints, and had failed to renew her lease because of the Petitioner's mental disability. In her Request, the Petitioner argues that the Landlord was aware of her mental disability because the word "Mental" was entered on the call run. The Petitioner contends she was wrongfully evicted because of her mental disability.
13. In its response, the Respondent asks the Commission to sustain its dismissal of the Petitioner's charge because the evidence is insufficient to establish a *prima facie* case of discrimination. Specifically, the Respondent argues there is no substantial evidence that the Landlord was aware of the Petitioner's mental disability when the Landlord allegedly did not respond to the Petitioner's complaints and when the Landlord chose not to renew the Petitioner's lease. Further, the Respondent states the Petitioner's *prima facie* case fails because there is no substantial evidence that similarly situated non-disabled tenants were treated more favorably under similar circumstances.

CONCLUSION

The Commission concludes 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). 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, * 2 (March 7, 1995)(1995 WL 793258).

Generally, a *prima facie* case of discriminatory terms, conditions, privileges, or services and facilities in the provision of housing requires proof of the following: **(1)** The Petitioner is a member of a protected class; **(2)** The Landlord was aware of the Petitioner's membership in that protected class; **(3)** the Petitioner was a tenant in good standing with the terms and conditions of tenancy; **(4)** the Landlord altered the terms, conditions, and privileges of the Petitioner's real estate transaction, and **(5)** the Landlord treated similarly situated tenants outside of the Petitioner's protected class more favorably under similar circumstances. See In re Request for Review of Phyllis Guajardo, IHRC, ALS No. 09-0329,(September 16, 2009); see also Turner v. Human Rights Commission, 177 Ill.App.3d 476, 488, 532 N.E.2d 392, 399 (1st Dist. 1988).

The Commission finds the Petitioner cannot establish a *prima facie* case of discrimination in the provision of housing because there is no substantial evidence that the Landlord was aware of the Petitioner's mental disability at any time during her tenancy prior to August 21, 2008, the date on which the Landlord notified the Petitioner of its intention not to renew her lease. The evidence shows the Petitioner first alerted the Landlord of her "health issues" on August 22, 2008, after she had already received notice the Landlord was not renewing her lease. Further, the Petitioner was vague as to the nature of her health issues.

The Petitioner argues that the call run generated by the Police is evidence the Landlord was aware of her mental disability because the call run contained the word "Mental" to describe three phone calls from the Petitioner to the Police during her tenancy. However, there is no evidence the Landlord was aware of these notations on the call run, nor that the Landlord caused these notations to be made on the call run. Moreover, a police officer's characterization of an individual as "Mental" does not equate with a clinical mental illness diagnosis under the Human Rights Act. Therefore, the call run does not establish that the Petitioner was disabled within the meaning of the Human Rights Act, or that the Landlord was aware of the Petitioner's alleged mental disability during her tenancy.

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, Northern Crossing, JV, LLC, and RMK Management Corporation 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 April 2010.

Commissioner Munir Muhammad

Commissioner Nabi Fakroddin