

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: 2009CF3853
	)	EEOC NO.: 21BA92230
<b>MICHELLE SMITH</b>	)	ALS NO.: 10-0180
	)	
Petitioner.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Marti Baricevic, Robert S. Enriquez, and Gregory Simoncini presiding, upon Michelle Smith’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Department of Human Rights (“Respondent”)<sup>[1]</sup> of Charge No. 2009CF3853; 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 JURISDICTION**

In support of which determination the Commission states the following:

1. On May 21, 2009, the Petitioner filed a charge of discrimination with the Respondent. The Petitioner alleged that the SOI, Veterans of Foreign Wars (“VFW”) discharged her on May 15, 2009, because of her race, Black (Count A), and sex, female (Count B), in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”). On February 26, 2010, the Respondent dismissed the Petitioner’s charge for Lack of Jurisdiction. On March 10, 2010, the Petitioner filed this timely Request.
2. The VFW, a private nonprofit organization, employed the Petitioner as an Assistant State Service Officer. On May 15, 2009, the VFW discharged the Petitioner.

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<sup>[1]</sup> 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. The Act defines an “employer” as... “[a]ny person employing 15 or more employees within Illinois during 20 or more calendar weeks within the calendar year of or preceding the alleged violation.” 775 ILCS § 5/2-101(B)(1)(a).
4. The Respondent dismissed the Petitioner’s charge for lack of jurisdiction based on its determination that the VFW was not an “employer” within the meaning of the Act. The Respondent determined that between January 2008 and October 2009, the VFW had employed between 9 and 13 individuals.
5. In her Request, the Petitioner lists 13 individuals whom she claims were employed by the VFW during the timeframe of August 6, 2007, to February 15, 2008. The Petitioner then lists 22 individuals whom she claims were employed by the VFW during the period of February 2008 to May 2009. The Petitioner admits that she does not know the start and end dates for these individuals. The Petitioner provides a statement in which she details the circumstances surrounding her termination.
6. In its Response, the Respondent asks the Commission to sustain its dismissal of the Petitioner’s charge for lack of jurisdiction based on its original determination that the VFW was not an “employer” as defined by the Act.

### ***Conclusion***

The Commission concludes the Respondent properly dismissed the Petitioner’s charge for lack of jurisdiction.

The evidence shows that the VFW was not an “employer” within the meaning of Section 2-101(B)(1)(a) of the Act because the VFW did not employ 15 or more employees within the statutory timeframe. The Petitioner has not provided any additional evidence that demonstrates the VFW is an “employer” as defined by the Act.

