

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2011CP2424
)	EEOC NO.: N/A
PEGGY HARRISON,)	ALS NO.: 11-0811
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners David Chang¹, Robert A. Cantone, and Brad Cole² presiding, upon Peggy Harrison’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Department of Human Rights (“Respondent”)³ of Charge No. 2011CP2424; and the Commission having reviewed *de novo* the Respondent’s investigation file, including the Investigation Report and the Petitioner’s Request, 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:

A. PROCEDURAL HISTORY

1. On February 17, 2011, the Petitioner filed a charge of discrimination with the Respondent. The Petitioner alleged Technicraft Collision Experts, LLC (“Technicraft”) denied her its services as a place of public accommodation because of her race, Black, in violation of Section 5-102(A) of the Illinois Human Rights Act (“Act”).
2. The Petitioner alleged that on March 4, 2010, Respondent provided her unequal services because of her race in that Technicraft required her to pay cash to retrieve an automobile that Technicraft towed but allowed similarly situated co-workers whose race is non-black to pay by debit card or credit card.
3. On October 6, 2011, the Respondent dismissed the Petitioner’s charge for Lack of Substantial Evidence.
4. On December 16, 2011, the Petitioner filed a timely Request. On February 1, 2012, the Respondent filed its Response to the Petitioner’s Request.

¹ This Order is in accordance with a vote cast by Commissioner Chang prior to the expiration of his term.

² This Order is in accordance with a vote cast by Commissioner Cole prior to the expiration of his term.

³ 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.”

B. FACTUAL HISTORY, ALLEGATIONS, & ARGUMENTS

1. On September 12, 2011, pursuant to the request of the Village of Justice, Technicraft towed the Petitioner's automobile.
2. On September 13, 2011, the Petitioner sought to retrieve her automobile from Technicraft, Technicraft required the Petitioner to pay the towing fees with cash and denied her request to use a debit card.
3. The service that Technicraft provided to the Petitioner was not a service available to the public. The service Technicraft provided was primarily to the Village of Justice. Technicraft towed Petitioner's automobile on September 12, 2011, pursuant to the request of the Village of Justice.
4. Technicraft offers repair services to the public and allows credit or debit card payments for such services,
5. There was no evidence that Technicraft towed but allowed similarly situated car owners whose race is non-black to pay by debit card or credit card to have their vehicle released.
6. Technicraft did not allow any customers who had their automobiles towed to pay by debit or credit card.
7. In her request the Petitioner argues that Technicraft was deceptive when it submitted tow invoices for August 2010 through September 2010. The Petitioner contends that she filed a FOIA with the Village of Justice and the City of Lyons. The result of the FOIA indicated that the Technicraft did not tender all the tow invoices. The Petitioner is requested that the Commission investigate the matter and require the Technicraft to submit all invoices.
8. In its response, the Respondent asks the Commission to sustain its dismissal of the Petitioner's charge for Lack of Substantial Evidence. The Respondent argues Technicraft is not a place of public accommodation and the Respondent lacked jurisdiction to investigate the charge. In the alternative, the Respondent argued that even if it had jurisdiction over the Technicraft as a place of public accommodation, the evidence was insufficient to establish a prima facie case of discrimination.

C. DISCUSSION & DETERMINATION

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, 1995 WL 793258, *2 (March 7, 1995).

The Commission finds the evidence insufficient to establish even a *prima facie* case of discrimination. Generally to establish a *prima facie* case of discrimination concerning a public accommodation the Petitioner must show that: 1) the Petitioner is within a protected category; 2) he or she was denied full enjoyment of the respondent's facilities; and 3) that others not within his or her protected class were given full enjoyment of those facilities. See *In the Matter of Velma J. Henderson and Steak N Shake, Inc.*, IHRC, Charge No. 1996CP2939, 1999 WL 33252627, *9 (March 24, 1994).

In the Petitioner's case the second and third elements were not established. The Petitioner had her vehicle involuntarily towed and impounded at the request of the Village of Justice. The tow service was not available to the public and was primarily for the use of local municipalities. In essence, the Petitioner was not seeking Technicrafts services; she was seeking to have her car released from Technicrafts's auto pound. Furthermore, there was no evidence offered by the Petitioner that Technicraft allowed non-Black car owners that had their cars towed, to pay by debit card or credit. The Petitioner only offered her speculation that non-Black car owners were treated more favorably. However, mere speculation and conjecture does not constitute substantial evidence of discrimination. See *Willis v. IDHR*, 307 Ill.App.3d 317, 718 N.E.2d 240 (4th Dist. 1999).

D. CONCLUSION

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show that the Respondent's dismissal of the Charge was not in accordance with the Act. The Petitioners' 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 Technicraft Collision Experts, 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 3rd day of December 2018.

Commissioner David Chang

Commissioner Robert A Cantone

Commissioner Brad Cole