

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: <b>2012CH0365</b>
	)	HUD NO.: <b>05-11-1332-8</b>
<b>SHAWANNA TOWNSEND,</b>	)	ALS NO.: <b>11-0815</b>
	)	
Petitioner.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners David Chang<sup>1</sup>, Robert A. Cantone, and Brad Cole<sup>2</sup> presiding, upon Shawanna Townsend's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")<sup>3</sup> of Charge No. 2012CH0365; 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 August 8, 2011, the Petitioner filed an unperfected charge of discrimination with the Respondent, which was perfected on August 30, 2011. The Petitioner alleged Peak Properties, Inc. ("Peak"), subjected her to discriminatory terms, conditions, privileges, or services and facilities (Count A) and failed to rent to her (Count B) because of her race, Black, in violation of Sections 3-102(A) and 3-102(B) of the Illinois Human Rights Act ("Act")
2. The Petitioner alleged that on June 23, 2010, Peak subjected her to discriminatory terms, conditions, privileges, or services and facilities because of her race in that Peak asked the Petitioner to pay \$1,500 up front before she leased the apartment.
3. On October 28, 2011, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence.
4. On November 11, 2011, the Petitioner filed a timely Request. On January 25, 2012, the Respondent filed its Response to the Petitioner's Request.

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

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

<sup>3</sup> 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 or about July 2011, Peak was the management agent for the subject property located at 4645 South Drake Avenue, Chicago, Illinois 60632.
2. The subject property is a four unit apartment building. Peak takes Section 8 tenants and receives federal funds. Peak's rental requirements are that prior to renting an apartment, the applicant must: 1) pay a non-fundable move in fee of \$300 for up to 2 adults or \$150 per adult for more than 2 tenants; and 2) pay the first month's rent in advance.
3. The Petitioner is a participant in the housing choice voucher program.
4. The Petitioner applied for a vacant apartment at the subject property and submitted documentation to Chicago Housing Authority ("CHA") for Section 8 assistance. The monthly rent for the apartment in the said subject property was \$1,200 per month.
5. Section 8, CHA requires that the vacant apartment pass inspection. The apartment that the Petitioner wished to rent failed inspection on May 4, 2011, and again on May 26, 2011. The apartment was in need of repairs. Peak then paid out of pocket for a third inspection.
6. On June 6, 2011, the vacant apartment was ready to rent to the Petitioner. On or about June 6, 2011, the Petitioner went to Peak's office to sign the lease.
7. Natalie Esposito ("Esposito"), Peak's Leasing Agent, told the Petitioner that the monthly rent for the vacant apartment was \$1,200 plus \$300 move in fee pursuant to its rental requirements. Esposito further explained that the Petitioner must pay the first month's rent plus the move in fee for a total of \$1,500 prior to moving in.
8. The Petitioner did not pay the first month's rent and move in fee.
9. On or about June 13, 2011, the Petitioner offered to pay \$1,000 instead of the \$1,500. Peak refused the partial payment in that Petitioner's offer was not the full amount (i.e., one month's rent plus move in fee).
10. There was no evidence that Peak treated a non-Black rental applicant more favorably under similar circumstances.
11. The evidenced showed that Peak rented to similarly situated Black tenants who paid first month's rent and move in fee.
12. In her request, the Petitioner argues that Peak is not telling the truth. The Petitioner contends that she had the funds to rent the apartment and Peak refused her money.

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 even a *prima facie* case of housing 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 housing discrimination. Generally, in order to establish a *prima facie* case of housing discrimination, there must be evidence that: (1) the Petitioner belongs to a protected class; (2) Peak was aware of the Petitioner's protected class; (3) the Petitioner was ready, willing and able to rent the premises; and (4) Peak refused to rent to her. See *In the Matter of Peggy Buchanan*, IHRC, Charge No. 1988CH0129, 1991 WL 698583, \*11 (September 6, 1991).

In the Petitioner's case, the third and fourth elements of the *prima facie* case were not established. The Petitioner was not ready, willing and able to rent the premises. The evidence revealed that the Petitioner refused to pay the first month's rent plus a move in fee, therefore she was not willing and able to rent the premises. The evidence further revealed that Peak had leased apartments to similarly situated Black tenants who paid the first month's rent and move in fee. Lastly, there was no evidence that Peak treated non-Black tenants more favorably than the Petitioner under similar circumstances. As such, there was no substantial evidence that Peak failed to rent to the Petitioner because of her race.

### **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 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 Peak Properties, Inc. 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 3<sup>rd</sup> day of December 2018.**

Commissioner David Chang

Commissioner Robert A Cantone

Commissioner Brad Cole