

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2011CF2232
)	EEOC NO.: 21BA10948
JASMINE HARRIS,)	ALS NO.: 11-0818
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Nabi R. Fakroddin, Merri Dee¹, and Lauren Beth Gash² presiding, upon Jasmine Harris's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")³ of Charge No. 2011CF2232; 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:

FAILURE TO PROCEED

In support of which determination the Commission states the following findings of fact and reasons:

A. PROCEDURAL HISTORY

1. On October 26, 2010, the Petitioner filed an unperfected charge of discrimination with the Respondent, which was perfected on February 26, 2011. The Petitioners alleged that Western Transportation ("Employer") Respondent harassed her because of her race, Black, in violation of Section 2-102(A) of the Illinois Human Rights Act ("Act").
2. On October 24, 2011, the DHR dismissed the Complainant's charge for Failure to Proceed.
3. On November 14, 2011, the Petitioner filed a timely Request. On January 18, 2012, the Respondent filed its Response to the Petitioner's Request.

B. FACTUAL HISTORY, ALLEGATIONS, & ARGUMENTS

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

² This Order is in accordance with a vote cast by Commissioner Gash prior to the expiration of her 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."

1. On July 1 2011, the Petitioner's counsel told the Respondent's staff that the Petitioner was available for a finding conference and agreed to attend a fact finding conference on August 24, 2011 at 1:00p.m. at the Respondent's Chicago office.
2. The Respondent mailed a conformation letter to the Petitioner's attorney on July 15, 2011. The confirmation letter stated that failure to attend the fact finding conference may be grounds for dismissal of the Complainant's charge.
3. On August 24, 2011, the fact finding conference was held. The Employer attended the conference and the Petitioner failed to attend.
4. On August 26, 2011, the Respondent mailed a letter to the Petitioner's attorney requesting an explanation for the Petitioner's failure to attend.
5. On September 29, 2011, the Petitioner's attorney wrote a letter to the Respondent. The letter stated that the Petitioner had moved and she never received the letter confirming the date of the fact finding conference.
6. In her request the Petitioner contends that there was a major flood in her apartment and her old phone number had to be changed because of the flood. No other argument was tendered by the Petitioner.
7. In its response, the Respondent asks the Commission to sustain its dismissal of the Petitioner's charge for Failure to Proceed. The Respondent argues that the Petitioner failed to attend the fact finding conference and failed to show good cause.

C. DISCUSSION & DETERMINATION

The Commission's review of the Respondent's response leads it to conclude that the Respondent properly dismissed the Petitioner's charge for failure to proceed. If the Petitioner's fails to cooperate with the Respondent, the Respondent may dismiss the charge pursuant to 56 Ill. Adm. Code §2520.430(c).

The Commission concludes that the Petitioner failed to proceed by failing to attend the Respondent's fact finding conference. The Respondent may convene a fact finding conference for the purpose of obtaining evidence, identifying issues in dispute, ascertaining the positions of the parties and explore the possibility of a negotiated settlement. See 56 Ill. Adm. Code §2520.440(a). The failure of the Petitioner to attend the fact finding conference without good cause after due notice may result in dismissal of the charge. The Petitioner failed to show good cause for her failure to attend the fact finding conference pursuant to 56 Ill. Adm. Code §2520.440(d). The Respondent mailed to the Petitioner a notice of fact finding conference on July 15, 2011. The fact finding conference was scheduled for August 24, 2011. On August 24, 2011, the Employer attended the conference and the Petitioner did not attend. On August 26, 2011, the Respondent mailed a letter to the Petitioner requesting an explanation for her failure to attend the fact finding conference. The

Petitioner's attorney responded that the Petitioner had moved and she never received the letter confirming the date of the fact finding conference.

The Petitioner's argument is not persuasive. In the Petitioner's matter, the Petitioner was represented by counsel, as such all correspondence was address to the attorney of record. There was no evidence provided by the Petitioner that her counsel never received the Respondent's letters. Moreover, it was Petitioner's counsel who agreed to the fact finding conference date. In her Request the Petitioner also failed to show good cause as to why she did not attend the fact finding conference

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 Western Transportation 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 Nabi R. Fakroddin

Commissioner Merri Dee

Commissioner Lauren Beth Gash