

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: <b>2011CF3874</b>
	)	EEOC NO.: <b>21BA12129</b>
<b>CAROLYN BELL,</b>	)	ALS NO.: <b>12-0513</b>
	)	
	)	
Petitioner.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Hamilton Chang, Steve Kim, and Robert A. Cantone presiding, upon the Request for Review (“Request”) of Carolyn Bell (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)<sup>1</sup> of Charge No. 2011CF3874 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 for **LACK OF SUBSTANTIAL EVIDENCE** is **SUSTAINED**.

**DISCUSSION**

On January 21, 2011, the Petitioner filed a charge of discrimination with the Respondent alleging that State of Illinois Department of Children and Family Services (“Employer”) failed to accommodate her physical disabilities, and forced her onto a medical leave of absence due to those disabilities, in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”).

On June 18, 2012, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

Petitioner had been working at Employer since 1979. During her tenure, her work responsibilities had been adjusted, and she had sometimes been given assistance from other employees, because of her disabilities. On January 6, 2011, her supervisor informed her that she was being assigned new responsibilities that would include walking and lifting, and asked her to approach him with concerns. Petitioner did not. In anticipation that she might be assigned these new tasks, she had submitted doctor’s notes that restricted her ability to lift heavy items. She went to the hospital on January 10, and requested vacation from January 10 until January 17. She did not return to work, but submitted doctor’s notes that she was unable to work at all, and eventually went on disability in March 2011.

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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 requesting review of the Illinois Department of Human Rights’s action shall be referred to as the “Petitioner.”

Petitioner has failed to present a *prima facie* case that Employer failed to accommodate her disabilities. She must show 1) the petitioner is disabled within the meaning of the Act; 2) the employer had knowledge of the petitioner's disability; 3) the petitioner requested a reasonable accommodation; 4) the employer failed to accommodate the petitioner; and 5) with or without a reasonable accommodation, the petitioner could perform the essential functions of the job. Illinois Dep't of Corrections v. Illinois Human Rights Comm'n, 298 Ill. App. 3d 536, 540 (3d Dist. 1998). Petitioner admits that she never formally requested any reasonable accommodation that would have enabled her to fulfill her new responsibilities. She merely states that she did not think she needed to do so.

To show a *prima facie* case that Employer discriminated against her by forcing her to take a medical leave, Petitioner must show: 1) she is a member of a protected class; 2) she was performing her work satisfactorily; 3) she was subject to an adverse action; and 4) the Employer treated a similarly situated employee outside her protected class more favorably under similar circumstances. Marinelli v. Human Rights Comm'n, 262 Ill. App. 3d 247, 253-54 (2d Dist. 1994). Petitioner's claim fails at the third prong: she admits that she left work on January 10, 2011 to go to the hospital, and requested vacation time, which Employer granted. Following that vacation, Petitioner submitted doctor's notes that she was unable to work, and eventually went on disability. None of this constitutes an "adverse action" by Employer, as there was no evidence that Employer forced her to take a medical leave. See In the Matter of: Linda M. Hartman and City of Springfield Police Department, IHRC, Charge No. 1993SF0365 (October 4, 1999), 1999 WL 33252975 (Ill.Hum.Rts.Com.) (adverse action must be sufficiently severe or pervasive to constitute a term or condition of employment).

Accordingly, the Petitioner has not presented any evidence to show that the Respondent's dismissal of the charge was not in accordance with the Act.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

1. The dismissal of the Petitioner's charge is hereby **SUSTAINED**.
2. 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 State of Illinois Department of Children and Family Services 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 2nd day of November 2018.**

Commissioner Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Steve Kim