

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2012CH2642
)	HUD NO.: 05-12-0601-8
BOBBETTE M. CLAYTON,)	ALS NO.: 12-0540
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Michael Bigger, Amy Kurson, and Cheryl Mainor presiding, upon Bobbette Clayton’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2012CH2642 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 March 15, 2012, the Petitioner filed a charge of discrimination with the Respondent alleging that Eastlake Management Group, Inc. (“Landlord”) subjected her to discriminatory terms, conditions, privileges, or services and facilities due to her disability, religion, and sex in violation of Sections 3-102.1(B) and 3-102(B) of the Illinois Human Rights Act (“Act”). On July 23, 2012, the Respondent dismissed the Petitioner’s charge for lack of substantial evidence. The Petitioner filed a timely Request.

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. 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. In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747, 1995 WL 793258, *2 (March 7, 1995).

Generally, in order to show the existence of a *prima facie* case of discrimination in the provision of housing, there must be evidence of the following: (1) the Petitioner is a member of a protected class; (2) the Landlord was aware of the Petitioner's membership in that protected class; (3) the Petitioner was a tenant in good standing with the terms and conditions of tenancy; (4) the Landlord altered the terms, conditions, and privileges of the Petitioner's real estate transaction, and

¹ 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.”

(5) the Landlord treated similarly situated tenants outside of the Petitioner's protected class more favorably under similar circumstances. In re Warren Corprew and Slate Creek Apartments, et al., IHRC, Charge No. 2010SH0239, 2010 WL 5314832, *2 (June 23, 2010).

To be actionable in a housing situation, harassment must be so hostile that it alters the terms, conditions, or privileges of a real estate transaction. In re Robin Hobson and Larry Brown, Charge No. 2001CH2383, 2007 WL 6004201, *12 (July 25, 2007).

Petitioner's charge alleges that her Landlord failed to make necessary repairs, including mold removal, due to her physical disabilities of asthma and COPD. However, the Respondent's investigation revealed that not only was the Landlord never made aware of the Petitioner's disabilities, but she had also never complained of mold in her apartment. The investigation showed that the Petitioner had made a number of repair requests in writing, but none of them were about mold in her unit. Therefore, the Petitioner cannot prove all of the elements of her *prima facie* case.

Petitioner's charge next alleges that the elevators were frequently out of service, and she was forced to take the stairs, which was discrimination against her due to her physical disabilities of arthritis and COPD. During the investigation, the Petitioner was unable to recall a time when all three elevators were out of service, other than the power outage which affected the entire building and therefore could not be said to have targeted the Petitioner specifically. Again, the Petitioner cannot prove that the Landlord knew she was a member of a protected class, nor that it treated non-disabled residents more favorably.

Petitioner alleges that her Muslim neighbors harassed her because of her religion, Baptist. The investigation did not establish that the Petitioner had ever informed the Landlord of this harassment, nor could the Petitioner recall an instance where she had done so. When vicarious liability is asserted, the Petitioner must show that the owner knew or should have known about the harassment and failed to remediate the situation promptly. Szkoda v. Illinois Human Rights Comm'n, 302 Ill. App. 3d 532, 540 (1st Dist. 1998).

Lastly, the Petitioner alleges that she was harassed by the maintenance staff on two occasions because of her sex: in one, she states that a maintenance worker tried to push his way into her apartment, and in the other, she states that a maintenance worker told her "You are going to get raped and they will not pay you." Not only did the investigation contradict the Petitioner's version of events, but even if both events occurred as the Petitioner alleges they did, she cannot demonstrate that these two incidents were severe or pervasive enough to constitute actionable harassment, nor that they were done to her because of her sex.

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 Eastlake Management Group, Inc. as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS)
) **Entered this 13th day of November 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Michael Bigger

Commissioner Amy Kurson

Commissioner Cheryl Mainor