

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2011CP1893
)	EEOC NO.: N/A
MELANIE GRAY,)	ALS NO.: 12-0545
)	
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Duke Alden, Patricia Bakalis Yadgir, and Terry Cosgrove¹ presiding, upon the Request for Review (“Request”) of Melanie Gray (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)² of Charge No. 2011CP1893 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 Petitioner’s charge for **LACK OF SUBSTANTIAL EVIDENCE** is **SUSTAINED**.

DISCUSSION

On January 5, 2011, the Petitioner filed a charge of discrimination with the Respondent alleging that City of Chicago Park District (“District”) denied her the full and equal enjoyment of its facilities because of her race (black), in violation of Section 5-102(A) of the Illinois Human Rights Act (“Act”). Petitioner participated in a free adult open swim program at the District’s Harris Park facility, which was eliminated in the winter of 2011 and replaced with an aquatic exercise program and a lap swim program, both of which charged patrons.

On June 4, 2012, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

Generally, to establish a *prima facie* case of discrimination concerning a public accommodation, the Petitioner must show: 1) she is a member of a protected class; 2) she was denied full and equal enjoyment of the facilities and services; and 3) similarly situated individuals outside her protected class were treated more favorably. See In the Matter of Velma J. Henderson and Steak N Shake, Inc., IHRC, Charge No. 1996CP2939, 1999 WL 33252627, *9 (March 24, 1994). Petitioner’s charge fails at the second and third prongs. She was not prohibited from participating in any available swim program at the Harris Park facility, and has not shown that patrons of a different race were treated more favorably. She uses the open swim program and the lap swim program as

¹ This Order is in accordance with a vote cast by Commissioner Cosgrove prior to the expiration of his term.
² 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.”

proxies for different races; but the evidence showed that the patrons of Harris Park are at least 95% black. She also has not shown that the District's proffered reason for the schedule change (the lack of participation at open swim, and the need to generate revenue through user fees) is pretextual.

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 City of Chicago Park District, 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 2nd day of November 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Duke Alden

Commissioner Terry Cosgrove

Commissioner Patricia Bakalis Yadgir