

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

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| IN THE MATTER OF THE REQUEST |) | |
| FOR REVIEW BY: |) | CHARGE NO.: 2012CF1502 |
| |) | EEOC NO.: 21BA20422 |
| LINDA HARRIS, |) | ALS NO.: 12-0604 |
| |) | |
| Petitioner. |) | |

ORDER

This matter coming before the Commission by a panel of three, Commissioners Nabi R. Fakroddin, Hermene Hartman, and Lauren Beth Gash¹ presiding, upon Linda Harris's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")² of Charge No. 2012CF1502 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 November 30, 2011, the Petitioner filed a charge of discrimination with the Respondent alleging that Allpoints Security & Detective, Inc. ("Employer") suspended her and discharged her because of her disability 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 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).

To establish a *prima facie* case of disability discrimination under the Act, the Petitioner must prove: (1) that she is disabled within the definition of the Act; (2) that her disability is unrelated to her ability to perform the functions of the job she was hired to perform; and (3) that an adverse job action was taken against her related to her disability. Habinka v. Human Rights Comm'n, 192 Ill. App. 3d 343, 372-73. (1st Dist. 1989).

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

The Petitioner cannot prove her *prima facie* case of disability discrimination, as she cannot demonstrate that her disability is unrelated to her ability to perform the functions of her job. The Petitioner was hired as a Security Officer before she was diagnosed with hearing loss. As the ability to hear is a necessary qualification for a Security Officer, the Employer gave Petitioner an opportunity to get a hearing aid and provide a physician's note stating that her hearing was sufficient to perform the necessary duties of a Security Officer. The Petitioner was unable to provide a physician's note, and therefore could not certify that she was able to perform the necessary functions of her job.

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 Allpoints Security & Detective, 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 16th day of November 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Nabi R. Fakroddin, P.E., S.E.

Commissioner Hermene Hartman

Commissioner Lauren Beth Gash