

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: <b>2012CA1103</b>
	)	EEOC NO.: <b>21BA20161</b>
<b>KIMBERLY HARRINGTON,</b>	)	ALS NO.: <b>12-0607</b>
	)	
Petitioner.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Commission Chair Rose Mary Bombela-Tobias and Commissioners Nabi R. Fakroddin and Hermene Hartman presiding, upon Kimberly Harrington’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)<sup>1</sup> of Charge No. 2012CA1103 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 October 21, 2011, the Petitioner filed a charge of discrimination with the Respondent alleging that Bio-Medical Applications of Illinois (“Employer”) failed to re-hire her due to her race, age, sex, and in retaliation for filing a previous charge of discrimination in violation of Sections 2-102(A) and 6-101(A) of the Illinois Human Rights Act (“Act”). On June 22, 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).

In general, the *prima facie* elements in a failure to hire case alleging discrimination based upon membership in a protected class are as follows: (1) the Petitioner is a member of a protected class; (2) she applied for an open position; (3) she was qualified for the position she applied for; (4) she was not hired; and (5) thereafter, the position remained open and the Employer sought other applications, or the Employer filled the available position with a person not in the Petitioner’s protected class. In re

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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.”



**HUMAN RIGHTS COMMISSION )**

Commissioner Nabi R. Fakhroddin

Commissioner Hermene Hartman

Chair Rose Mary Bombela-Tobias