

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: <b>2012CH3242</b>
	)	HUD NO.: <b>05-12-0772-8</b>
<b>KEVIN MATTHEWS, SR.,</b>	)	ALS NO.: <b>12-0613</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 Kevin Matthews, Sr.'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. 2012CH3242 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 May 2, 2012, the Petitioner filed a charge of discrimination with the Respondent alleging that Jerry Barajas and Sandra Barajas ("Landlords") subjected him to discriminatory terms, conditions, services, and facilities because of his race, disabilities, and in retaliation for opposing unlawful discrimination in violation of Sections 3-102(B) and 6-101(A) of the Illinois Human Rights Act ("Act"). On August 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 housing discrimination, 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 (5) the Landlord treated

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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."

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 prove a *prima facie* case of retaliation, the Petitioner must prove the following three elements: (1) Petitioner engaged in a protected activity, (2) the employer took an adverse action against him, and (3) there was a causal nexus between the protected activity and the adverse action. Carter Coal Co. v. Human Rights Commission, 261 Ill. App. 3d 1, 7 (5th Dist. 1994).

There is no substantial evidence that Petitioner was subjected to unequal terms and conditions of his housing because of his membership in any protected class. The Petitioner's charge alleges that the Landlords failed to make necessary repairs and discriminatorily terminated his lease. As for his allegations regarding repairs, the Petitioner cannot prove his *prima facie* case as he cannot point to, nor did the investigation reveal, any similarly situated tenant who was not a member of the Petitioner's protected classes whose repair requests were honored by the Landlords. The Petitioner also cannot show that his lease was terminated due to his membership in a protected class. The investigation revealed, and the Petitioner did not dispute, that the Petitioner had not been paying rent for months prior to his eviction. Thus, the Petitioner was not a tenant in good standing, and cannot prove housing discrimination. The Petitioner also cannot prove the eviction was in retaliation for filing a previous charge of discrimination, as there is no causal nexus here. The investigation clearly showed that the Petitioner stopped paying rent, and the Landlords subsequently initiated eviction proceedings.

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, Jerry Barajas, and Sandra Barajas 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

Commissioner Hermene Hartman

Chair Rose Mary Bombela-Tobias