

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: <b>2012CF0803</b>
	)	EEOC NO.: <b>21BA12828</b>
<b>JOLENE MCKASS,</b>	)	ALS NO.: <b>12-0642</b>
	)	
	)	
Petitioner.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Hamilton Chang, Steve Kim, and Robert A. Cantone presiding, upon the Request for Review (“Request”) of Jolene McKass (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)<sup>1</sup> of Charge No. 2012CF0803 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 September 22, 2011, the Petitioner filed a charge of discrimination with the Respondent alleging that ABCXX.com, Inc. (“Employer”) discharged her because of her disability (carpal tunnel syndrome), in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”).

On September 25, 2012, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

Petitioner’s claim that she was discharged due to her disability fails. She must show: (1) that she is disabled within the meaning of the Act; (2) the employer had knowledge of the disability; (3) the Petitioner suffered an adverse employment action; and (4) the disability is unrelated to Petitioner’s ability to perform the job with or without an accommodation. Habinka v. Human Rights Commission, 192 Ill.App.3d 343, 373 (1st Dist. 1989). The Employer may then state a legitimate nondiscriminatory reason for the discharge, and Petitioner must prove that this reason is a pretext for discrimination. Id. at 372. Petitioner’s claim fails at this point. Employer asserts that Petitioner’s performance had been substandard. Petitioner admits that she made a number of errors in her work. Employer further asserts that it changed the computer system due to the system’s inefficiency, and that change eliminated many of Petitioner’s duties. Petitioner has not proven that either of these reasons was pretextual.

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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.”

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 ABCxx.com, 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 Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Steve Kim