

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST
FOR REVIEW BY:

OLLIE CRAWLEY,
Petitioner.

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CHARGE NO.: **2013CH0818**
HUD NO.: **05-12-1485-8**
ALS NO.: **13-0209**

ORDER

This matter coming before the Commission by a panel of three, Commissioners Nabi R. Fakroddin, Hermene Hartman, and Duke Alden presiding, upon Ollie Crawley's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2013CH0818; 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 Notice of Dismissal is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

A. PROCEDURAL HISTORY

1. The Petitioner filed an unperfected charge of discrimination with the Respondent on September 28, 2012, which was perfected on October 23, 2012. The Petitioner alleged that Morningside North Apartments ("Morningside"), ("Act").
2. In Count A, the Petitioner alleged that Morningside subjected her to discriminatory terms, conditions, privileges, services and facilities because of her race in that Morningside denied her access/entry into its building.
3. In Count B, the Petitioner alleged that Morningside subjected her to discriminatory terms, conditions, privileges, services and facilities because of her race in that Morningside denied her a pre-rental application.
4. In Count C, the Petitioner alleged Morningside subjected her to discriminatory terms, conditions, privileges, services and facilities because of her race in that Morningside made the Petitioner wait an excessive amount of time all in an effort to discourage her from renting an apartment unit.

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent."

5. On January 11, 2013, the Respondent dismissed the Petitioner's Charge for Lack of Substantial Evidence.
6. On April 16, 2013, the Petitioner filed this timely Request. On July 3, 2013, the Respondent filed its Response to the Request.

B. FACTUAL HISTORY, ALLEGATIONS, & ARGUMENTS

1. The Petitioner was a prospective tenant.
2. Morningside's facility is an apartment building complex for seniors over the age of 62 or non-elderly individuals who are disabled. Morningside's property has a total of 255 units located at 170 West Oak Street, Chicago, Illinois.
3. There are a total of 294 tenants of which 254 are race, white; 29 race, black; 2 race, Asian; and 9 race, other. Morningside's Site Manager, Marifela Santiago ("Santiago") (non-black), stated that Morningside's practice is that Morningside does not hand out applications for rental. Rather, Morningside mails out pre-application material. Santiago further articulated that Morningside's practice is to inform prospective tenants who inquire, on-site, about availability or an application that Morningside has a five-year waiting list and inform them that Morningside will mail out a pre-application to them at their current address.
4. On or about August 27, 2012, the Petitioner visited the said property in order to apply for housing. The Petitioner alleged that a white female employee of Morningside was at the front desk and refused to open the door when the Petitioner rang the doorbell. The Petitioner alleged that a tenant walked out of the building and allowed the Petitioner to enter.
5. The Petitioner alleged that she requested an application from an employee working the front desk and that she was told that Morningside does not give out applications. Rather, Morningside mails out pre-applications to individuals seeking housing at the said property. The Petitioner then asked for the "manager" of the said property. The Petitioner alleged that she was told that the manager was not available at the time. Shortly after, the Petitioner then met with Santiago.
6. Santiago told the Petitioner that Morningside does not hand out applications for housing at the said property and it mails out "pre-applications" to individuals. Santiago further explained that there is a waiting list to rent units at Morningside.
7. The Petitioner alleged that she waited at the said property for a period of time. Santiago later on gave her a pre-application and apologized for forgetting that she was waiting. The Petitioner sent a completed pre-application to Morningside.
8. The Petitioner was placed on Morningside's waiting list on September 18, 2012.

9. There was no evidence that other similarly situated non-black individuals who were given a pre-application, given access to the building, or treated more favorable under similar circumstances.
10. The following individuals were also placed on Morningside's five-year waiting list: Mandy Redmond (black), Patricia Mangan (non-black), Robert Holmes (black), and Yadiwiga Binkowska (non-black).
11. In his Request, the Petitioner argued that the Respondent's investigator did not interview Peggy Evans ("Evans"). Evans filed a different charge with the Respondent against Morningside in Charge No. 2013CH0819. The Petitioner argued that the Respondent also did not make mention of the fact that Pacific Management, Inc. manage the property for Morningside North Apartments and are listed under the Illinois Department of Housing for affordable rents for senior citizen. Lastly, the Petitioner reiterates the facts of her charge.
12. In its Response, the Respondent requests that the Commission sustain the dismissal of the Petitioner's charge for Lack of Substantial Evidence. The Respondent argued the evidence was insufficient to establish a prima facie case of discrimination. The Respondent further argued that the Morningside articulated a non-discriminatory reason for its actions and its investigation uncovered no evidence of pretext.

C. DISCUSSION & DETERMINATION

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. See 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. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747, 1995 WL 793258, *2 (March 7, 1995).

As to Counts A, B, and C, the Commission finds there is no substantial evidence to establish a *prima facie* case of discrimination. Generally, to establish a *prima facie* case of housing discrimination, the Petitioner must show: 1) the Petitioner is a member of a class of persons protected by the Act; 2) Morningside was aware of the Petitioner's membership in her protected class; 3) that Morningside subjected her to discriminatory terms, conditions, privileges, or services and facilities because of her membership in her protected class; and 4) Morningside did not treat similarly situated prospective tenant who were not in the Petitioner's class the same under similar circumstances. See Turner v. Human Rights Commission, 177 Ill.App.3d 476 (1st Dist. 1988). In the Petitioner's matter, the third and fourth elements were not established. First, there was no adverse action. The Petitioner was given a rental application and placed on Morningside waiting list for available rental units. Second, there was no evidence that Morningside treated other prospective tenants outside the Petitioner's protected class more favorably under similar circumstances. Rather, the evidenced showed that prospective tenants outside the Petitioner's protected class were treated similarly.

The Commission further concludes that Morningside articulated a non-discriminatory reason for its actions and there was no evidence of pretext in the articulated non-discriminatory reason. Morningside stated that the Petitioner was provided pre-application and provided answers to any questions regarding the property. Morningside further stated that at the time of the alleged harm, Morningside had a temporary person working at the front desk and she may not have known specific answers for some of Petitioner's questions but was given the basic information that Petitioner reported that she was told. Lastly, Morningside stated that the Petitioner did not return the pre-application. The Petitioner offered no evidence in her Request to rebut Morningside's business reason. In the absence of any evidence that the business consideration relied upon by the Morningside is a pretext for discrimination, it is improper to substitute judgment for the business judgment of the employer. See Berry and State of Illinois, Department of Mental Health and Developmental Disabilities, IHRC, ALS No. S-9146 (December 10, 1997).

D. CONCLUSION

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show that the Respondent's dismissal of the Charge was not in accordance with the Act. The Petitioners' Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Petitioner's charge is hereby **SUSTAINED**.

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, Morningside North Apartments as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

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Entered this 29th day of October 2018.

Commissioner Nabi R. Fakroddin

Commissioner Hermene Hartman

Commissioner Duke Alden