

STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST	)		
FOR REVIEW BY:	)	CHARGE NO.:	2012CP3301
	)	EEOC.:	N/A
SANDRA WARREN	)	ALS NO.:	13-0399
	)		
Petitioner.	)		

**ORDER**

This matter coming before the Commission by a panel of three commissioners, Chair Rose Mary Bombela-Tobias and Commissioners Patricia Bakalis Yadgir and Duke Alden presiding upon Sandra Warren’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”) of Charge No. 2012CP3301 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 26, 2012, the Petitioner, Sandra Warren, filed a perfected charge of discrimination with the Department of Human Rights (Department), alleging the RMC Loop Enterprises, LLC denied her full and equal enjoyment of a public accommodation because she is black in violation of Section 5-102(A) of the Illinois Human Rights Act (Act). On August 14, 2012, the Respondent dismissed Petitioner’s charge for lack of substantial evidence. The Petitioner timely filed a Request for Review on August 20, 2013.

The Commission concludes that the Respondent properly dismissed the Petitioner’s charge for lack of substantial evidence. If no substantial evidence exists after the Respondent’s investigation of a charge, the charge must be dismissed. 775 ILCS 5/7A-102(D)(3). Section 7A-102(D)(2) states substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion and which consists of more than a mere scintilla but may be somewhat less than a preponderance.

The evidence was insufficient to establish a *prima facie* case of denial of full and equal enjoyment of a public accommodation. Discrimination concerning a public accommodation exists when a Petitioner 1) is within a protected category; 2) he or she was denied full enjoyment of the respondent’s facilities; and 3) that others not within his or her protected class were given full enjoyment of those facilities. See In the Matter of v

Elma J. Henderson and Steak N Shake, Inc., IHRC, Charge No. 1996CP2939, 1999 WL 33252627, \*9 (March 24, 1994).

The alleged discrimination consisted of RMC's employee calling the police and having Petitioner and her grandchildren removed from the premises because she was black on November 13, 2011.<sup>1</sup> RMC admitted calling the police after the Petitioner became belligerent and disruptive and refused to leave the restaurant. Prior to being removed, Petitioner informed the manager that she received the incorrect food order and complained of filthy floors. The manager corrected her food order but did not make a comment about her race. The Petitioner, a frequent patron of the business, has made four complaints to various managers regarding incorrect food orders, no clean tables, no napkins, and homeless people begging customers since February 2011. RMC responded to Petitioner's complaints with an apology letter and free meal coupons. The Petitioner cannot prove she was denied the full enjoyment of the respondent's facilities because after each complaint, her food order was corrected, she received free coupons and returned to the restaurant.

RMC indicated no other customers created a disturbance that required the police to come and remove them. During the 24 months prior to Petitioner's complaint, no other customers complained about being denied the equal enjoyment of RMC's facility. Petitioner did not present evidence that non-black customers were not subjected to the same filthy floors, homeless people, unclean tables, no napkins or incorrect food orders. Therefore, Petitioner cannot prove that others not within her protected class were not subjected to the same treatment. Petitioner failed to establish a *prima facie* case and Respondent's dismissal for lack of substantial evidence was proper.

**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 RMC Loop Enterprises, LLC as the respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

**STATE OF ILLINOIS** )  
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**HUMAN RIGHTS COMMISSION** )

**Entered this 14 day of Dec. 2018.**

Chair Rose Mary Bombela-Tobias

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<sup>1</sup> The Petitioner left the restaurant upon police arrival and there is no evidence of an arrest.

Commissioner Patricia Bakalis Yaddir

Commissioner Duke Alden