

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)
FOR REVIEW BY:)

ELIZABETH KEYSER,)

Petitioner.)

CHARGE NO.: **2013CH1301**
HUD NO.: **05-13-0139-8**
ALS NO.: **13-0404**

ORDER

This matter coming before the Commission by a panel of three, Commissioners Robert A. Cantone, Hamilton Chang, and Nabi R. Fakroddin presiding, upon the Request for Review (“Request”) of Elizabeth Keyser (“Petitioner”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2013CH1301 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 November 28, 2012, the Petitioner filed a perfected charge of discrimination with the Respondent alleging that Claremont North Condominium Association (“Association”) failed to reasonably accommodate her physical disability and subjected her to discriminatory terms, conditions, privileges, or services and facilities because of her disability, in violation of Sections 3-102.1(B) and 3-102.1(C)(2) of the Illinois Human Rights Act (“Act”). On June 19, 2013, 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 in its entirety 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 order to establish a prima facie case of failure to reasonably accommodate a disability, the Petitioner must prove that 1) she is disabled as defined by the Act; 2) the Association knew or should have known that the Petitioner was a disabled person; 3) the Petitioner requested a reasonable accommodation in the Association’s rules, policies, practices, procedures, or services; 4) the

¹ 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.”

Petitioner's request was reasonable and necessary; and 5) the Association denied her request for a reasonable accommodation. In re Request for Review of Carole Lambert, IHRC, Charge No. 2011SH1229, 2018 WL 6071854, *3 (July 24, 2018).

In this case, the Petitioner has failed to establish a prima facie case because the Association did not deny her request for reasonable accommodation. The Petitioner argued that she needed a table in the community room for her groceries and laundry, as she transported the items from her car to her condominium unit, because she was disabled. Although initially stating that it did not need to accommodate her, the Association eventually purchased a table and chairs for the room, as well as a utility cart. In response to her further complaints, the Association modified the chairs and cart to accommodate her. Thus, the Petitioner cannot prove that the Association failed to accommodate her.

In order to establish a prima facie case of discriminatory terms, conditions, privileges, or services and facilities because of her disability, the evidence must show that 1) the Petitioner is disabled; 2) the Association was aware of the Petitioner's disabilities; 3) the Petitioner was in good standing with the terms and conditions of the Association; 4) the Association subjected her to discriminatory terms, conditions, privileges, or services and facilities, because of her disabilities, and (5) the Association did not treat a similarly situated non-disabled owner the same under similar circumstances. See Turner v. Human Rights Comm'n, 177 Ill. App. 3d 476, 487 (1st Dist. 1988).

In this case, the Petitioner's claim fails because she cannot show that the Association imposed fines or revoked her parking space based on her disability. The Association provided evidence that the Petitioner chain-locked a storage container to a gas meter pipe in the community room, and that their policy prohibited personal items in common areas without prior authorization. The Association removed the container and asked the Petitioner to attend a meeting to discuss the infraction. She went to the meeting but immediately left, and the Association fined her in accordance with their rules. The Petitioner also failed to establish that the Association did not treat a non-disabled unit owner more favorably under similar circumstances. The only comparative presented was an owner who the Association was able to interact with, who apologized for the infraction. The Petitioner differed in that she refused to discuss the infraction, and did not apologize or otherwise make assurances that the incident would not occur again.

With respect to the revocation of her parking space, the Petitioner did not show that this was based on her disability either. The Association revoked her parking space because she had failed to pay her assessments and other fees, including the fine for the storage container, for 90 days. The Association followed their procedures on dealing with failure to pay fees, and notified the Petitioner in advance of the revocation. The Association offered proof that it had followed the same procedures for two other unit owners who were late in payments. Thus, the Petitioner has failed to meet the requirements of a prima facie case of discrimination.

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 Illinois Appellate Court by filing a Petition for Review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Claremont North Condominium Association, as respondents, with the Clerk of the Illinois Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS)
) **Entered this 18th day of December 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Nabi R. Fakhroddin, P.E., S.E.