

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: 2013CP0412
	)	EEOC NO.: N/A
<b>MATTHEW SIMMONS</b>	)	ALS NO.: 13-0444
	)	
Petitioner.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Robert A. Cantone, Hamilton Chang and Nabi R. Fakroddin presiding, upon Matthew Simmons’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. 2013CP0412 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 August 8, 2012, the Petitioner filed a charge of discrimination with the Respondent alleging that Wabash Food and Liquors, denied him full and equal enjoyment of its facility and services based on his race (black) and sex (male) in violation of Section 5-102(A) of the Illinois Human Rights Act (“Act”). On July 17, 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 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).

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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.”

There is no substantial evidence that the Petitioner was denied full and equal enjoyment of Wabash Food and Liquors' facilities and services due to his race and sex. Generally, to establish a *prima facie* case for discrimination in public accommodation the Petitioner must show that (1) he is a member of a protected class; (2) he was denied or refused the full and equal enjoyment of the facilities and services; and (3) that similarly situated individuals outside the Petitioner's protected class were treated differently. Friedner and Happy Reunion, IHRC, Charge No. 2000SP0220, 2001WL1717010, ALS No. S-11365 (August 1, 2001).

Here, the Petitioner alleges that, shortly after entering the store with his mother and a friend, he was completing his lottery ticket when he was told by a security guard to leave. The evidence establishes that the Petitioner and his mother were able to complete and purchase the lottery ticket, thus, not being denied any services. Additionally, the Petitioner cannot show that other similarly situated non-black and female customers were treated more favorably or differently than he. Therefore, there is no substantial evidence that the Petitioner was denied the full and equal enjoyment of Wabash Food and Liquors' facilities or services based on his race or sex.

Accordingly, the Petitioner has not presented any substantial 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 Department of Human Rights, the Illinois Human Rights Commission, and Wabash Food and Liquors, as named party respondents, with the Clerk of the Illinois Appellate Court within 35 days after the date of service of this Final Order.

**STATE OF ILLINOIS** )  
 ) **Entered this 20<sup>th</sup> day of December 2018**  
**HUMAN RIGHTS COMMISSION** )

Commissioner Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Nabi R. Fakhroddin