

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

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

**Sherri Hall-Dupart** )

Petitioner. )

CHARGE NO.: **2013CF1845**  
EEOC NO.: **21BA41200**  
ALS NO.: **14-0441**

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Robert A. Cantone, Hamilton Chang, and Steve Kim, presiding, upon Sherri Hall-Dupart'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. 2013CF1845 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 is **SUSTAINED** on the following ground:

**LACK OF SUBSTANTIAL EVIDENCE**

**DISCUSSION**

On October 26, 2012, the Petitioner filed an unperfected charge of discrimination with the Respondent, which she perfected on January 30, 2013. The Petitioner, a Data Entry Operator, alleges that the City of Chicago-Department of Public Health ("CCDPH") failed to accommodate her physical disability, non-allergic Rhinitis, in violation of Section 2-102(A) of the Illinois Human Rights Act ("Act"). 775 ILCS 5/2-102(A)

Petitioner is an individual with disabilities as defined under Section 1-103(l) within the meaning of the Act.

On July 17, 2014, the Respondent dismissed the Petitioner's charge in its entirety. The Petitioner filed a timely Request for Review on September 4, 2014.

The Commission concludes that the Respondent properly dismissed all counts of 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

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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."

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).

On October 17, 2012, Petitioner requested a reasonable accommodation for her disability, indicating certain food odors and scents aggravated her condition. Petitioner also proposed a transfer to a larger facility with better indoor air quality. Petitioner is in the habit of requesting accommodations. Since 2010, CCDPH has provided Petitioner several accommodations of modified work and a complete ergonomic work station which included a chair for back support, ergo rest for arm support, smart beads wrist rest, wireless keyboard and adjustable notebook riser.

In order to establish a *prima facie* case of failure to accommodate a disability, Petitioner must show that: 1) she is disabled within the meaning of the Act; 2) CCDPH was aware of her disability; 3) she requested a reasonable accommodation to her disability; 4) CCDPH failed to accommodate Petitioner; and 5) she was qualified to perform the job duties with or without a reasonable accommodation. *Caterpillar v. HRC*, 154 Ill. App. 3d 424;429-30, 506 N.E.2d 1029, 1033, 107 Ill.Dec.138 (3d Dist. 1987).

To accommodate Petitioner's non-allergic Rhinitis, CCDPH had instructed employees who worked in the same room as Petitioner to refrain from wearing perfumes or colognes and not eat in the room, as well as ordered an air purifier. CCDPH articulated a non-discriminatory reason for denying Petitioner's request to be transferred to a larger room in a different facility was that there was no vacancy for a data entry operator at the time. Lastly, CCDPH attempted to engage Petitioner in an interactive process to accommodate her but she never proposed any other accommodations for her physical disability, non-allergic rhinitis. Thus, the evidence is insufficient to establish a *prima facie* case of failure to accommodate because of a physical disability, non-allergic rhinitis.

In her Request for Review, there is no additional evidence provided by Petitioner that would warrant a reversal of Respondent's original determination.

Accordingly, the Petitioner has not presented 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 Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and CCDPH as 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 7th day of November 2018.**

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Commissioner Robert A. Cantone (Chair)

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Commissioner Hamilton Chang

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Commissioner Steve Kim