

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2014SH2150
)	HUD NO.: 05-14-0574-8
)	ALS NO.: 14-0532
JANA WEST,)	
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Hermene Hartman, Steve Kim, and Cheryl Mainor presiding, upon Jana West's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")¹ of Charge No. 2014SH2150, 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

The Petitioner filed an unperfected charge of discrimination with the Respondent on February 25, 2014, perfected on March 12, 2014 and amended on April 14, 2014, alleging that Janet Brotherton and John Brotherton (referred to collectively as "Landlords") failed to provide a reasonable accommodation for her physical disability (lupus), and altered the terms and conditions of her apartment rental because of her disability, in violation of Sections 3-102.1(B) and 102.1(C)(2) of the Illinois Human Rights Act ("Act"). On August 28, 2014, the Respondent dismissed the Petitioner's charge for lack of substantial evidence. The Petitioner filed a timely Request.

For the reasons that follow, the Commission concludes that there is no substantial evidence that the Landlords did not provide the Petitioner a reasonable accommodation or that they impermissibly altered the terms and conditions of her rental. Substantial evidence is that which "a reasonable mind accepts as sufficient to support a particular conclusion and which consists of more than a mere scintilla but may be somewhat less

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."

than a preponderance.” 775 ILCS 5/7A-102(D); Owens v. Dep’t of Human Rights, 403 Ill. App. 3d 899, 917, 936 N.E.2d 623, 638 (1st Dist. 2010). If no substantial evidence of discrimination exists after the Respondent’s investigation of a charge, the charge must be dismissed. Id.

Section 3-102.1(C)(2) of the Act provides that it is a civil rights violation to “refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.” 775 ILCS 5/3-102.1(C)(2).

Section 3-102.1(B) further provides that is a civil rights violation to “alter the terms, conditions or privileges of sale or rental of a dwelling or the provision of services or facilities in connection with such dwelling” because of the disability of a tenant. 775 ILCS 5/3-102.1(B).

The Petitioner states that her physical disability, lupus, was aggravated by the excessive heat in her apartment, and that the heat seemed to be stuck in the “on” position. The Petitioner alleges that even after reporting this problem to the Landlords on November 2, 2013, they failed to remedy the situation. The Petitioner states that because the Landlords did not take steps to reduce the heat in her unit, they not only failed to provide her a reasonable accommodation, but effectively altered the terms and conditions of her rental, forcing her to provide a 30-day notice on December 5, 2013 that she would not be renewing her lease.

The evidence turned up by the Respondent’s investigation fails to support the Petitioner’s contentions. Rather, the record shows that on November 2, the local fire department responded to a call from the Petitioner about the heat and found her bathroom to be warm. The fire department advised the Petitioner to keep her bathroom door open to divert the heat. The Landlords’ maintenance manager later came out to the Petitioner’s apartment on November 4, to replace a valve in the bathroom.

Subsequently, on November 15, 2013, the local division of rental inspections conducted an inspection of the property. The inspector found the heat supply to be working properly, and the temperature in the Petitioner’s unit to be up to code. The inspector also cited the Landlords for two minor code violations not related to the heating system. The Landlords issued the Petitioner a written notice that they were going to remedy those two issues on November 18, but that all other systems had been verified to be functioning properly. A follow-up inspection on December 10, 2013 found that the two minor code violations had been addressed.

The documented evidence simply does not show that the Landlords failed to take steps to make a reasonable accommodation for the Petitioner, or that they otherwise altered the terms and conditions of her rental. Accordingly, the Petitioner has not shown 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, Janet Brotherton, and John Brotherton as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS)
) **Entered this 21st day of November 2018**
HUMAN RIGHTS COMMISSION)

Commissioner Hermene Hartman

Commissioner Steve Kim

Commissioner Cheryl Mainor