

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

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

**SUSANNA MENDOZA,** )

Petitioner. )

CHARGE NO.: **2014CF2411**  
EEOC NO.: **21BA41205**  
ALS NO.: **15-0123**

**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 Susanna Mendoza (“Petitioner”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)<sup>1</sup> of Charge No. 2014CF2411 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 March 13, 2014, the Petitioner filed a charge of discrimination with the Respondent alleging that Kohler Waters Spa (“Employer”) discharged her due to her disability, anxiety, and failed to accommodate her due to her disability, anxiety, in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”). On January 21, 2015, 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).

In order to establish a prima facie case of disability discrimination, the Petitioner must show that 1) she has a disability within the meaning of the Act; 2) that her disability is unrelated to her ability to perform the essential functions of her job; and 3) an adverse job action was taken against her because of the disability. Illinois Dep’t of Corrections v. Illinois Human Rights Comm’n, 298 Ill. App. 3d 536, 540

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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.”

(3<sup>rd</sup> Dist. 1998). The Petitioner seeking accommodation bears the burden of asserting the duty to accommodate; showing that an accommodation was, in fact, requested; and demonstrating that accommodation was necessary for adequate performance. Owens v. Department of Human Rights, 356 Ill. App. 3d 46, 53 (1<sup>st</sup> Dist. 2005). If the employer rebuts the presumption of unlawful discrimination by articulating a legitimate, nondiscriminatory reason for its employment decision, the Petitioner must prove that the reason was merely a pretext for unlawful discrimination. In the Matter of F. Gene Beenenga, IHRC, Charge No. 1993SA0101, 1997 WL 313423, \*6 (April 4, 1997).

The Petitioner argues that she suffered from anxiety and needed to take a temporary medical leave of absence, which she later tried to extend. She claims that she was discharged because of her disability, and that she should have been allowed to extend her leave as an accommodation for her condition. Although the Employer's account of the end of her employment varies dramatically from hers, the resolution of this case does not require determination of the factual differences. The Petitioner's claims fail because she never told the Employer that she had a disability, and never asked for an accommodation for a stated disability. Because the Employer did not know about her condition, it cannot have discharged her or failed to accommodate her for that reason.

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 Kohler Waters Spa 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. Fakroddin, P.E., S.E.