

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

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

Terri L. Stone,)
)
Petitioner.)

CHARGE NO.: **2021CF1502**
EEOC NO.: **21BA10727**
ALS NO.: **22-0020**

ORDER

This matter coming before the Commission on August 3, 2022 by a panel of three, Panel Chair Barbara R. Barreno-Paschall, Chair Mona Noriega and Commissioner Stephen A. Kouri II presiding, upon the Request for Review (“Request”) of Terri L. Stone (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2021CF1502, 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 Petitioner’s charge for **LACK OF SUBSTANTIAL EVIDENCE** is **SUSTAINED**.²

DISCUSSION

On December 4, 2020, Petitioner filed a charge of discrimination with the Respondent (perfected on April 23, 2021) alleging that Thornton Heights Terrace (“Employer”) harassed (Count A), suspended (Counts B and C), and discharged (Count D) her based on her disability in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”). The Respondent administratively closed Counts B, C, and D on September 28, 2021, pursuant to Petitioner’s request. On November 19, 2021, the Respondent dismissed Count A of Petitioner’s charge for Lack of Substantial Evidence. Petitioner filed a timely Request.

Factual Background

Petitioner was hired by Employer in May 2003. Petitioner stated that in September 2019,³ she informed Employer that she was unable to use Employer’s time punching machine to track her work hours because she could not lay her hand flat. Executive Director Kimberly Rogers instructed Petitioner to start signing in and out of work manually, and to bring a doctor’s note regarding her hand. Petitioner stated that about one week later she brought to Employer a doctor’s note which identified her condition

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.”

² This order is entered pursuant to a 3-0-0 vote by the Commissioners.

³ The Report identified September 2019 as the approximate date when Petitioner first notified Employer of her condition. Petitioner’s Request and Respondent’s Response identified September 2018. The timing of the event does not impact the analysis.

as sarcoid arthritis. Petitioner brought a second doctor's note to Employer in December 2019 which indicated that her condition had worsened. Petitioner stated in her Request that both notes indicated no permanent condition. The Respondent's Response to Petitioner's Request (the "Response") revealed that in June 2021, Petitioner's doctor verified that she suffered from sarcoid arthritis, and that the condition is not minor and not permanent.

Petitioner stated that from September 2019 to March 2020, Rogers and Employer's payroll department made frequent errors on Petitioner's paychecks. Petitioner further stated that Rogers told other employees to watch Petitioner as she filled out her time sheets because Rogers believed that Petitioner was being dishonest in them. Petitioner also alleged that Rogers denied knowledge of Petitioner's condition, that she disparaged Petitioner's condition, and that she told Petitioner to stop signing in manually and use the time punching machine.

Rogers denied making disparaging remarks about Petitioner's condition. She stated that the errors in Petitioner's paychecks, which were eventually corrected, were caused by mistakes Petitioner made in her manual time sheets, and that she and other administrators had to frequently meet with Petitioner regarding the time sheets. Rogers stated that she did know of Petitioner's condition but did not consider it a disability. She further stated that Petitioner's condition only affected her ability to use the time punching machine and not her ability to perform her job duties.

Respondent's Investigative Report (the "Report") revealed uncontested evidence that at some point in the relevant period, Rogers recalibrated the time punching machine so that Petitioner could use it, but allowed Petitioner to use manual time sheets if the machine malfunctioned. Additionally, it is uncontested that Petitioner's paychecks only had errors when she used manual time sheets.

In her Request, Petitioner stated that Rogers and other administrative employees disrespected and mistreated her during the relevant time period. She stated that one administrative employee became angry with Petitioner when Petitioner asked about errors on her paycheck, that she yelled at Petitioner and pointed a finger in her face, and that she refused to go over Petitioner's payroll with her. Petitioner further stated that another administrative employee and Rogers expressed frustration at Petitioner's manual time sheets because they required extra work to process.

Analysis

The Commission concludes that the Respondent properly dismissed 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). Under the Act, substantial evidence is "evidence 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 than a preponderance." 775 ILCS 5/7A-102(D)(2).

To establish a *prima facie* disability discrimination case, Petitioner must show 1) that she is disabled within the definition of the Act; 2) that her disability is unrelated to her ability to perform the functions of the job she was hired to perform; and 3) that an adverse job action was taken against her related to her disability. *Ill. Dep't of Corrections v. Ill. Human Rights Comm'n*, 298 Ill. App. 3d 536, 540 (3d Dist. 1998).

Section 1-103(I)(1) of the Act defines "disability" as a "determinable physical or mental characteristic of a person" that is "unrelated to a person's ability to perform the duties of a particular job." 775 ILCS 5/1-103(I)(1). Excluded from this definition are "conditions that are transitory and insubstantial" and those "that are not significantly debilitating or disfiguring." 56 Ill. Admin. Code, Ch. II, §2500.20(b)(1).

Here, Petitioner's doctor stated that Petitioner's sarcoid arthritis is not permanent, and Petitioner did not provide evidence that her condition is permanent. Further, Petitioner did not provide evidence that her condition was debilitating beyond making it difficult for her to use Employer's time punching machine. Because her condition is transitory and insubstantial, and is not significantly debilitating or disfiguring, Petitioner did not establish that she is disabled under the Act and cannot satisfy the first element of her *prima facie* claim.

Moreover, even if Petitioner provided substantial evidence that she is disabled under the Act, she cannot satisfy the adverse action element, in which she alleged that Employer harassed her. Harassment occurs when the employer's conduct was "sufficiently severe or pervasive 'to alter the conditions of [the employee's] employment and create an abusive work environment.'" *Motley v. Ill. Human Rights Comm'n*, 263 Ill. App. 3d 367, 374 (4th Dist. 1994). In determining whether the conduct altered an employee's conditions of employment, the Commission will consider "the severity of the alleged conduct, its frequency, whether it is physically threatening or humiliating (or merely offensive), and whether it unreasonably interferes with the employee's work performance." *Robinson v. Perales*, 894 F.3d 818, 828 (7th Cir. 2018). Further, the harassment must be related to the Petitioner's claimed protected class. See *Sola v. Ill. Human Rights Comm'n*, 316 Ill. App. 3d 528, 542 (1st Dist. 2000).

Here, Petitioner alleged that Employer made errors on her paychecks, that administrative staff refused to go over her payroll with her and were rude to her, that Rogers had other employees monitor Petitioner's manual time sheets, that Rogers did not allow her to track her hours manually, and that Rogers made disparaging remarks about her condition.

Employer's conduct was not sufficiently severe or pervasive to alter the conditions of Petitioner's employment or create an abusive work environment. Petitioner did not provide evidence that the errors in her paychecks were deliberate and conceded that the errors only appeared when she used manual time sheets. Further, the Report revealed that the errors were eventually corrected, and that Rogers recalibrated the punching machine so that Petitioner could use it. Additionally, Rogers was entitled to take measures to ensure that Petitioner filled out her time sheets correctly, especially given Petitioner's history of making errors. Petitioner did not provide evidence that Employer intended to humiliate or

threaten her, and the Report revealed that Employer's conduct was related to Petitioner's frequent time sheet errors, not her condition. Therefore, Employer's conduct did not constitute harassment and Petitioner cannot satisfy the adverse action element of her claim.

Accordingly, Petitioner has not presented sufficient 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 Petitioner's charge for lack of **SUBSTANTIAL EVIDENCE** 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 Thornton Heights Terrace as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS)
)
HUMAN RIGHTS COMMISSION)

Entered this 9th day of August, 2022.

Commissioner Barbara R. Barreno-Paschall

Commissioner Stephen A. Kouri II

Chair Mona Noriega

