

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2010CA0834
	EEOC NO.: 21BA93383
RUTH ANN LAMONT,)	ALS NO.: 11-0490
)
)
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Rozanne Ronen¹, Nabi Fakhroddin, and Merri Dee², presiding, upon Ruth Ann Lamont's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")³ of Charge No. 2010CA0834; 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

In support of which determination the Commission states the following findings of fact and reasons:

1. On August 11, 2009, the Petitioner filed a charge of discrimination with the Respondent. The Petitioner alleged The City of Country Club Hills ("Country Club Hills") discharged her because of her age, 57 (Count A), her race, White (Count B) in violation of Section 2-102(A) of the Illinois Human Rights Act ("Act"). On June 30, 2011, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On August 4, 2011, the Petitioner filed a Request for Review.

¹ This Order is in accordance with a vote cast by Commissioner Ronan prior to the expiration of her term.

² This Order is in accordance with a vote cast by Commissioner Dee prior to the expiration of her term.

³ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge who is requesting review of the Department's action shall be referred to as the "Petitioner."

2. The Petitioner was employed as a Director of Communications by Country Club Hills.
3. In her charge, the Petitioner alleged that on April 24, 2009, Country Club Hills discharged her because of her age and race. The Petitioner alleged that she was satisfactorily performing her job duties and met the Employer's expectations. The Petitioner alleged that when the Country Club Hills's new Police Chief, became in charge, she restructured the department and targeted her position for elimination. The Petitioner lastly alleged that younger, non-white employees were treated more favorably because their positions were not eliminated.
4. Country Club Hills denied that it discharged the Petitioner because of her age and race. Rather, Country Club Hills stated that it discharged the Petitioner because due to its 2009/2010 budget reorganization and restructuring of the police department. Country Club Hills further stated that the elimination of Petitioner's position was not based on her age or race but in an attempt to help Country Club Hills through a serious budget deficit and department restructuring by reducing personnel. Country Club Hills lastly denied that younger, non-white employees were treated more favorably.
5. In April 2009, Country Club Hills's Police Chief, Regina Evans ("Evans"), determined that Country Club Hills needed to make budget cuts by downsizing its personnel due to Country Club Hills's financial problems.
6. On April 9, 2009, Country Club Hills informed the Petitioner that her position would be eliminated effective April 24, 2009. In addition to eliminating the Petitioner's position pursuant to Country Club Hills's reduction-in-force, Country Club Hills eliminated eighteen (18) other positions. The evidence revealed that fourteen (14) of the positions eliminated were held by non-white employees and six (6) of the positions were held by employees under the age of forty.
7. In his Request for Review, the Petitioner argues that the Country Club Hills's reasons for her discharge are pretext for unlawful discrimination. The Petitioner contends that after she was discharged the Country Club Hills hired less qualified younger non-White employees to her position.
8. In its response, the Respondent argues that the evidence was insufficient to establish a *prima facie* case of discrimination. The Respondent further argued that Country Club Hills articulated a non-discriminatory reason for discharging the Petitioner and that there was no evidence that the articulated business reason was pretext for unlawful discrimination.

Conclusion

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. See 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. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747, 1995 WL 793258, *2 (March 7, 1995).

The Commission finds there is a Lack of Substantial Evidence in the Petitioner's case. Specifically, the evidence was insufficient to establish a *prima facie* case of discrimination. Generally, to establish a prima facie case of discrimination, the Petitioner must show: (1) that he is a member of a protected class; (2) that he was performing his work satisfactorily; (3) that he was subject to an adverse action; (4) and that the Employer treated a similarly situated employee outside the Petitioner's protected class more favorably under similar circumstances. See Marinelli v. Human Rights Commission, 262 Ill.App.3d 247, 634 N.E.2d 463 (2nd Dist. 1994).

In the Petitioner's case there was no evidence that Country Club Hills treated a similarly situated employee outside the Petitioner's protected class more favorably under similar circumstances. Fourteen (14) of the positions eliminated were held by non-white employees and six (6) of the positions were held by employees under the age of forty. As such, the evidence did not show Country Club Hills discharged the Petitioner because of her age or race.

The Commission further finds that the Country Club Hills articulated a non-discriminatory reason for discharging the Petitioner and that there was no evidence that the articulated business reason was pretext for unlawful discrimination. The Employer discharged the Petitioner due to budget cuts and restructuring. In the absence of any evidence that the business consideration relied upon by the Employer is a pretext for discrimination, it is improper to substitute judgment for the business judgment of the employer. See Berry and State of Illinois, Department of Mental Health and Developmental Disabilities, IHRC, ALS No. S-9146 (December 10, 1997).

Lastly, as to the new claim of failure to rehire raised by the Petitioner for the first time in her Request, the Commission does not have jurisdiction to review new allegations or charges of discrimination. See 775 ILCS 5/8-103.

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Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Petitioner's charge is hereby **SUSTAINED**.

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 Country Club Hills, 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 4th day of December 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Rozanne Ronen

Commissioner Nabi Fakroddin

Commissioner Merri Dee