

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2010CF2800
)	EEOC NO.: 21BA01416
JOSEPH R. RODRIGUEZ,)	ALS NO.: 11-0804
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Nabi R. Fakroddin, Hermene Hartman, and Lauren Beth Gash¹ presiding, upon Joseph R. Rodriguez's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")² of Charge No. 2010CF2800 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 9, 2010, the Petitioner filed a charge of discrimination with the Respondent alleging that Teamsters Union Local #705 ("Employer") retaliated against the Petitioner for opposing unlawful discrimination in violation of Section 6-101(A) of the Illinois Human Rights Act ("Act"). On September 13, 2011, 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. To prove a *prima facie* case of retaliation, a Complainant must prove the following three elements: (1) Complainant engaged in a protected activity, (2) Respondent took an adverse action against Complainant, and (3) there was a causal nexus between the protected activity and the adverse action. Carter Coal Co. v. Human Rights Commission, 261 Ill. App. 3d 1, 7 (5th Dist. 1994). Under Section 6-101(A) of the Act, a complainant must show that he or she "has opposed that which he or she reasonably and in good faith believes to be unlawful discrimination," or that he or she has "filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this Act." 775 ILCS 5/6-101(A).

There is no substantial evidence that the Petitioner engaged in a "protected activity" as required under the Act. The Petitioner's charge of retaliation stated that he was discharged because he "filed internal charges alleging abuse of executive authority," not because the Petitioner alleged

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

² 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."

any type of unlawful discrimination. Nor did the Department's investigation reveal that the Petitioner had filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under the Act. Therefore, the Petitioner cannot satisfy the first prong of his *prima facie* case. To the extent that the Petitioner's Request for Review alleges that the Respondent's investigation was incomplete, or that financial statements show that his Employer was not in a poor financial position, and thus terminating the Petitioner's employment was unnecessary, none of this evidence changes the fact that there is nothing to support the claim that the Petitioner engaged in a protected activity under the Act. While one of the exhibits to the Petitioner's Request for Review is a letter wherein the Petitioner states his belief that he was terminated due to age and disability discrimination, these bases were not articulated in the Petitioner's charge with the Department, and therefore the Commission may not consider them. See Deen v. Lustig, 337 Ill. App. 3d 294, 305-06 (4th Dist. 2003).

Accordingly, 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 Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Teamsters Union Local #705 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 24th day of October 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Nabi R. Fakroddin, P.E., S.E.

Commissioner Hermene Hartman

Commissioner Lauren Beth Gash