STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST FOR REVIEW BY:	)	CHARGE NO.: **2009CF3099**
	)	EEOC NO.: **21BA91639**
MICHAEL LOVE,	)	ALS NO.: **11-0875**
Petitioner.	)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Diane M. Viverito,[1] Michael Bigger, and Amy Kurson presiding, upon Michael Love's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")[2] of Charge No. 2009CF3099 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 29, 2009, the Petitioner filed a charge of discrimination with the Respondent alleging that Security Management & Investigations, Incorporated ("Employer") issued him a written disciplinary warning based on his race and in retaliation for filing a previous charge of discrimination with Respondent in violation of Sections 2-102(A) and 6-101(A) of the Illinois Human Rights Act ("Act"). The Petitioner's case was dismissed by the Respondent three times, with the Respondent requesting each time that the dismissal be vacated and that the charge be remanded back to them for further investigation. On November 21, 2011, the Respondent again 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).

To establish a *prima facie* case of discrimination, the Petitioner must show: 1) he is a member of a protected class; 2) he was performing his job satisfactorily; 3) he was subject to an adverse action; and 4) the Employer treated a similarly situated employee outside his protected class more

[1] This Order is in accordance with a vote cast by Commissioner Viverito 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."

favorably under similar circumstances. Marinelli v. Human Rights Comm'n, 262 Ill. App. 3d 247, 634 N.E.2d 463 (2d Dist. 1994).

To prove a *prima facie* case of retaliation, the Petitioner must prove that: 1) Petitioner engaged in a protected activity, 2) Employer 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).

There is no substantial evidence that Employer issued a written disciplinary warning to Petitioner because of his race. The investigation revealed that the written warnings were issued in response to the Petitioner leaving his post in violation of the Employer's Employee Handbook. Further, the evidence shows that the other employees that the Petitioner identified who were similarly situated but had not been disciplined to the same extent were not in fact similarly situated. Whereas the Petitioner was disciplined for leaving his post as a security officer, the other two employees were both at their posts during the incidents identified by the Petitioner.

There is also no substantial evidence that the Employer issued a written disciplinary warning to Petitioner in retaliation for engaging in protected activity. The record shows that the Petitioner filed his previous charge of discrimination with the Respondent on August 13, 2008, more than seven months prior to the date that the Employer issued the written warnings. There is an inference that the third prong of the retaliation analysis, the causal nexus, has been satisfied when the period of time between the protected activity and the alleged retaliation is sufficiently close. Previous decisions have found that a time span of six months was too remote to establish an inference of connectedness. Mitchell and Local Union 146, 20 Ill. HRC Rep. 101, 110-11 (1985). The time period here is too far removed to infer that the Employer's actions were in retaliation for the Petitioner's protected activity, and the Petitioner has presented no other evidence to support his charge.

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 Security Management and Investigations, Incorporated as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

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Entered this 24th day of October 2018.

Commissioner Diane M. Viverito

Commissioner Michael Bigger

Commissioner Amy Kurson