

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST )	
FOR REVIEW BY: )	CHARGE NO.: <b>2010CA0368</b>
WARDA JUBEH, )	EEOC NO.: <b>21BA02678</b>
)	ALS NO.: <b>12-0035</b>
)	
Petitioner. )	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Nabi R. Fakroddin, Mary Dee<sup>1</sup>, and Lauren Beth Gash<sup>2</sup> presiding, upon Warda Jubeh's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")<sup>3</sup> of Charge No. 2010CA0368 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, WHEREFORE, it is hereby **ORDERED** that the Respondent's Notice of Dismissal is **SUSTAINED** for **LACK OF SUBSTANTIAL EVIDENCE**.

**DISCUSSION**

On August 11, 2010, the Petitioner filed a perfected charge of discrimination with the Respondent. On January 24, 2014, the Respondent dismissed the charge for Failure to Proceed, following which the Petitioner filed a Request for Review. The Petitioner alleged Levy Premium Foodservice Limited Partnership Foodservice, d/b/a Levy's Restaurants at Wrigley Field ("Levy") issued her a one-day suspension because of her age, 55, her color, dark complexion, her ancestry, Jordanian, her sex, female, and in retaliation for filing a previous charge with the Respondent; and issued her a three-day suspension because of her age, her color, her ancestry, her sex, and in retaliation for filing a previous charge with the Respondent in violation of Sections 2-102(A) and 6-101(A) of the Illinois Human Rights Act ("Act"). October 19, 2011, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On January 23, 2012, the Petitioner filed her Request. On February 24, 2012, the Petitioner submitted a reply to the Respondent's Response to Request for Review.

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

<sup>1</sup> This Order is in accordance with a vote cast by Commissioner Dee prior to the expiration of her term.

<sup>2</sup> This Order is in accordance with a vote cast by Commissioner Gash prior to the expiration of her term.

<sup>3</sup> 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."

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 concludes that 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 she is a member of a protected class; (2) that she was performing his work satisfactorily; (3) that she 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 (2<sup>nd</sup> Dist. 1994). In the Petitioner's case, there was no evidence that levy treated a similarly situated employee outside the Petitioner's protected class more favorably under similar circumstances.

As to the retaliation claims, the Commission concludes that the evidence was insufficient to establish a *prima facie* case of retaliation. Generally to establish a *prima facie* case of retaliation the Petitioner must show: (1) she engaged in a protected activity; (2) the Employer committed an adverse action against her; and (3) a causal connection existed between the protected activity and the adverse action. See Welch v. Hoeh, 314 Ill.App.3d 1027, 1035, 733 N.E.2d 410, 416 (3<sup>rd</sup> dist. 2000). A causal connection will be inferred if the period of time between the protected activity and the adverse action is sufficiently short. See Mitchell and Local Union, 146, 20 Ill. HRC Rep. 101, 110-11 (1985) (six months was too remote to establish connectedness); Lynell Mims and State of Illinois, Illinois Department of Lottery, Charge No. 1989CF1141, 1998 WL 937898 (December 17, 1998). (nineteen-month time period. The Petitioner filed a previous charge of discrimination on October 27, 2009. The alleged civil rights violation occurred ten months later on August 11, 2010. As such, the time period between the protected activity and the advers acton is to remote to infer a casual connection.

The Commission further concludes that Levy articulated a non-discriminatory reason for its actions and there was no evidence of pretext. Levy stated that it suspended the Petitioner because the Petitioner gave a vender the wrong hotdogs and that the Petitioner was rude to her supervisor. In her Request, the Petitioner did not offer any evidence of pretext. 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).

In her Request, the Petitioner does not provide any additional evidence that would warrant a reversal of the Respondent's original determination. Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show that the Respondent's dismissal of the Charge was not in accordance with the Act. The Petitioners' 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, Levy Premium Foodservice Limited Partnership Foodservice, d/b/a Levy's Restaurants at Wrigley Field as Respondent, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

**STATE OF ILLINOIS**

**HUMAN RIGHTS COMMISSION**

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**Entered this 10<sup>th</sup> day of December 2018.**

Commissioner Nabi R. Fakroddin

Commissioner Mary Dee

Commissioner Lauren Beth Gash