

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2011CF0111
)	EEOC NO.: 21BA02462
ALBERT DEL ROSARIO,)	ALS NO.: 12-0173
)	
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Terry Cosgrove, Patricia Bakalis Yadgir, and Marti Baricevic¹ presiding, upon the Request for Review (“Request”) of Albert Del Rosario (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)² of Charge No. 2011CF0111 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**.

DISCUSSION

On July 14, 2010, Petitioner filed a charge of discrimination with the Respondent alleging that Everest College (“Employer”) subjected him to harassment because of his race, and discharged him in retaliation for opposing unlawful discrimination, in violation of Sections 2-102(A) and 6-101(a) of the Illinois Human Rights Act.

On December 22, 2011, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

Harassment must be so severe and pervasive that it alters the conditions of employment and creates an abusive working environment. Harris v. Forklift Systems, Inc., 510 U.S. 17, 20 (1993). Petitioner alleges that one coworker called him “Hector” several times (which he interpreted as a reference to his race) and told students that Petitioner was there to clean up. Assuming these allegations are true, the isolated comments were not sufficiently pervasive to create an abusive working environment.

Petitioner alleges that, a few weeks after he complained about the coworker’s harassment, Employer discharged him. A *prima facie* case of retaliation requires evidence that the Petitioner engaged in a protected activity, that they suffered an adverse action, and that there is evidence of a

¹ This Order is in accordance with votes cast by Commissioners Baricevic and Cosgrove prior to the expiration of their terms.
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.”

causal connection between the protected activity and the adverse action. See Welch v. Hoeh, 314 Ill. App. 3d 1027, 1035 (3rd Dist. 2000). If the Petitioner presents a *prima facie* case, the Employer must then produce a legitimate, nondiscriminatory reason for its action, and Petitioner must prove that this reason is a pretext for discrimination. Zaderaka v. Illinois Human Rights Comm'n, 131 Ill. 2d 172, 179 (1989). Petitioner's claim fails at this point. Employer states that, after receiving complaints from several employees that Petitioner was not in his assigned workspaces when needed, it examined Petitioner's time cards and discovered discrepancies. Petitioner admitted that he falsified his time cards. He has not shown this reason to be pretextual.

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 Everest College, 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 2nd day of November 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Marti Baricevic

Commissioner Terry Cosgrove

Commissioner Patricia Bakalis Yadgir