STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST FOR REVIEW BY:	)	CHARGE NO.: **2010SA3855**
	)	EEOC NO.: **21BA02167**
VALARIE WADE,	)	ALS NO.: **12-0202**
Petitioner.	)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Duke Alden, Patricia Bakalis Yadgir, and Terry Cosgrove[1] presiding, upon Valarie Wade's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")[2] of Charge No. 2011SA3855 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 April 21, 2010, the Petitioner filed a charge of discrimination with the Respondent alleging that Startek USA, Inc., ("Employer") subjected her to harassment based on her sex (Count A); and discharged her due to her age of 57 years (Count B), her disability of uncontrolled hypertension (count C), and as retaliation for complaining about sexual harassment (Count D), in violation of Sections 2-102(A) and 6-101(A) of the Illinois Human Rights Act ("Act"). On January 5, 2012, 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. 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 an actionable case of sexual harassment, Petitioner must show that the discriminatory ridicule was so severe or pervasive that it altered the conditions of employment, and created an abusive working environment. Harris v. Forklift Systems, Inc., 510 U.S. 17, 20 (1993). The harassment Petitioner described in Count A (a supervisor placing his hand on her shoulder, the

[1] This Order is in accordance with a vote cast by Commissioner Cosgrove prior to the expiration of his 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."

supervisor joking that he had "been molested" at a party, and the supervisor saying that he would like to give another employee a kiss) was not so pervasive or severe that it changed the conditions of her employment.

Generally, to establish a *prima facie* case of discrimination, the Petitioner must show: 1) she is a member of a protected class; 2) she was performing her work satisfactorily; 3) she was subject to an adverse action; and 4) the Employer treated a similarly situated employee outside her protected class more favorably under similar circumstances. Marinelli v. Human Rights Comm'n, 262 Ill. App. 3d 247, 634 N.E.2d 463 (2d Dist. 1994). As to Counts B and C, Petitioner has not shown the fourth element. The Employer discharged Petitioner for being aggressive and defensive in conversations with her supervisor, but she did not identify younger, non-disabled employees who were not discharged for similar behavior. The employer identified two younger, non-disabled employees who had also been discharged for insubordination or disruptive behavior.

Count D also fails. The investigation showed that on February 2, 2010, Petitioner questioned a change in the Employer's procedures and was told that she was being insubordinate and disruptive. Two days later, she was discharged. Petitioner argues that she was discharged for complaining about the sexual harassment detailed in Count A, but there is no evidence that the Employer's explanation was pretextual rather than grounded in her behavior. Burnham City Hospital v. Illinois Human Rights Comm'n, 126 Ill. App. 3d 999, 467 N.E.2d 635 (1984).

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 Startek USA, Inc., 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 10th day of October 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Duke Alden

Commissioner Terry Cosgrove

Commissioner Patricia Bakalis Yadgir