

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2012CA0378
)	EEOC NO.: 21BA12492
JUANA GONZALEZ-KOENEKE,)	ALS NO.: 12-0233
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Diane M. Viverito,¹ David J. Walsh,² and Robert A. Cantone presiding, upon Juana Gonzalez-Koeneke's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")³ of Charge No. 2012CA0378 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 August 11, 2011, the Petitioner filed a charge of discrimination with the Respondent alleging that The Board of Education of Rockford School District Number 205 ("Employer") suspended and discharged her from her position as a bus driver because of her race and age in violation of Section 2-102(A) of the Illinois Human Rights Act ("Act"). On February 23, 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 a *prima facie* case of employment discrimination, the Petitioner must show that: 1) she is a member of a protected group; 2) she performed her job satisfactorily; 3) the employer took adverse action against her despite the adequacy of his work; and 4) a similarly situated employee,

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

² This Order is in accordance with a vote cast by Commissioner Walsh prior to the expiration of his term.

³ 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."

who is not a member of the protected group, was not subjected to the same adverse action. Anderson v. Chief Legal Counsel, 334 Ill. App. 3d 630, 634 (3d Dist. 2002). Once the Petitioner establishes a *prima facie* case of discrimination, then the burden shifts to the Employer to rebut the presumption of discrimination and articulate a non-discriminatory reason for its employment action. McDonald Douglas Corp. v. Green, 411 U.S. 792 (1973); adopted by Illinois Supreme Court in Zaderaka v. Human Rights Comm., 131 Ill. 2d 172, 179 (1989). The Petitioner must then show that the Employer's articulated reason for its employment action was a mere pretext. Id.

There is no substantial evidence that the Employer suspended or termination the Petitioner because of her race or her age. The Respondent's investigation revealed that the Petitioner was suspended from her position because she failed to perform the required pre-trip inspection and follow the proper procedures when stopping at a railroad crossing. The Petitioner was then terminated from her position because the Office of the Illinois Secretary of State suspended her driver's permit for three years, so she was unable to perform the essential duties of a bus driver. The investigation further revealed that similarly situated employees had been disciplined or terminated for the same infractions, and the Petitioner was unable to present any evidence that her Employer's reasons for the disciplinary action were a mere pretext.

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 The Board of Education of Rockford School District Number 205 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 26th day of October 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Diane M. Viverito

Commissioner David J. Walsh

Commissioner Robert A. Cantone