

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

|                                |   |                               |
|--------------------------------|---|-------------------------------|
| IN THE MATTER OF THE REQUEST   | ) |                               |
| FOR REVIEW BY:                 | ) | CHARGE NO.: <b>2011CF3869</b> |
|                                | ) | EEOC NO.: <b>21BA12135</b>    |
| <b>JUANA GONZALEZ-KOENEKE,</b> | ) | ALS NO.: <b>12-0234</b>       |
|                                | ) |                               |
| Petitioner.                    | ) |                               |

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Diane M. Viverito,<sup>1</sup> David J. Walsh,<sup>2</sup> 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")<sup>3</sup> of Charge No. 2011CF3869 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 June 30, 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 in retaliation for opposing unlawful discrimination in violation of Section 6-101(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 prove a *prima facie* case of retaliation, the Petitioner must prove the following three elements: (1) the petitioner engaged in a protected activity, (2) her employer took an adverse action against her, 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).

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

<sup>2</sup> This Order is in accordance with a vote cast by Commissioner Walsh prior to the expiration of his 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 requesting review of the Illinois Department of Human Rights's action shall be referred to as the "Petitioner."

There is no substantial evidence that Petitioner was suspended or discharged in retaliation for engaging in protected activity. The Petitioner's charge states that she engaged in protected activity in early 2009 by complaining to her manager that her supervisor was treating her differently. However, the Petitioner was not able to articulate when exactly she complained, nor does she assert that she complained about unlawful discrimination, only that she was being treated differently. There is simply no substantial evidence that the Petitioner engaged in any protected activity as required by the Act.

Further, 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). Here, the Petitioner was suspended and discharged at least two years after she engaged in what she alleged was protected activity. There is therefore no substantial evidence to show that, even if the Petitioner did engage in protected activity, the Employer's adverse employment actions were in retaliation for doing so.

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