

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: <b>2011CA2518</b>
	)	EEOC NO.: <b>21BA11156</b>
<b>JOHN CHARLES DAVIS,</b>	)	ALS NO.: <b>12-0246</b>
	)	
	)	
Petitioner.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Lauren Beth Gash<sup>1</sup>, Hermene Hartman, and Nabi R. Fakroddin presiding, upon the Request for Review (“Request”) of John Charles Davis (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)<sup>2</sup> of Charge No. 2011CA2518 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 December 29, 2010, the Petitioner filed a charge of discrimination with the Respondent alleging that Orkin, LLC (“Employer”) issued written warnings, suspended him, and discharged him because of his age, in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”).

On February 7, 2012, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

Generally, to establish a prima facie case of discrimination, the Petitioner must show: 1) he is a member of a protected class; 2) he was performing his work satisfactorily; 3) he was subject to an adverse action; and 4) the Employer treated a similarly situated employee outside the 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). 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 produced legitimate reasons for each piece of discipline Petitioner received. He was issued written warnings for failing to ensure that his branch opened on time and failing to order brochures; he was suspended for retaliating against an employee

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<sup>1</sup> This Order is in accordance with a vote cast by Commissioner Gash prior to the expiration of her term.  
<sup>2</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.”

after being warned not to do so; and he was discharged for the retaliation and making negative comments to a customer. Petitioner has not proven that these reasons were 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 Orkin, LLC, 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 24th day of October 2018.**  
**HUMAN RIGHTS COMMISSION** )

Commissioner Nabi R. Fakroddin

Commissioner Lauren Beth Gash

Commissioner Hermene Hartman