STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST FOR REVIEW BY:	)	CHARGE NO.: **2011CF0883**
	)	EEOC NO.: **21BA03048**
GREGG THOMPSON,	)	ALS NO.: **12-0249**
Petitioner.	)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Duke Alden, Rose Mary Bombela-Tobias, and Terry Cosgrove[1] presiding, upon the Request for Review ("Request") of Gregg Thompson ("Petitioner"), of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")[2] of Charge No. 2011CF0883 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 September 29, 2010, Petitioner filed a charge with the Respondent alleging that AT&T ("Employer") harassed and suspended him, and issued a "final written warning," because of his race and in retaliation for having filed a previous EEOC charge of discrimination, in violation of Sections 2-102(A) and 6-101(A) of the Act.

On January 23, 2012, the Respondent dismissed the Petitioner's charge in its entirety. The Petitioner filed a timely Request.

In September 2008, Petitioner filed an EEOC charge complaining that Employer discriminated against him on the basis of his race. The charge was settled in March 2009. In April 2010, Employer received an anonymous complaint that Petitioner was working on a side business on the Employer's time. One of the supervisors conducted an "asset protection" investigation, confiscating Petitioner's Employer-issued cell phone and questioning him for several hours. Petitioner was then suspended ten days without pay during the investigation. In May 2010, Employer issued Petitioner a "final written warning," and Petitioner then called Employer's internal hotline to complain of potential discrimination. In October 2010, Employer downgraded the "final written warning" to a "written warning," and gave Petitioner back pay for the ten-day suspension.

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[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."

Petitioner's harassment claims fail. 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). The actions Petitioner describes (an internal investigation motivated by an anonymous complaint) do not rise to that level. "Heavy-handed management" is unpleasant but not necessarily motivated by discriminatory animus, and so not actionable. Patel v. Allstate Insurance, 105 F.3d 365 (7th Cir. 1997).

Petitioner has also not shown that he was suspended or disciplined due to his race. 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 his 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). Petitioner has not identified an adverse action: he was reimbursed for the suspension, and the "final written warning" was downgraded to less severe discipline. See In the Matter of: Linda M. Hartman and City of Springfield Police Department, IHRC, Charge No. 1993SF0365 (October 4, 1999), 1999 WL 33252975 (Ill.Hum.Rts.Com.) (adverse action must be sufficiently severe or pervasive to constitute term or condition of employment).

Finally, Petitioner has not shown that any of Employer's actions were retaliatory. 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 causal connection between the protected activity and the adverse action. See Welch v. Hoeh, 314 Ill. App. 3d 1027, 1035, (3rd Dist. 2000). A causal connection will be inferred if the period of time between the protected activity and the adverse action is sufficiently short, but here, eighteen months passed between Petitioner's EEOC filing and the alleged harassment, suspension, and written warning. See Lynell Mims and State of Illinois, Illinois Department of Lottery, Charge No. 1989CF1141, 1998 WL 937898 (December 17, 1998). (nineteen-month time period between protected activity and adverse action to long to create an inference of retaliation).

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 AT&T, as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS)
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HUMAN RIGHTS COMMISSION)

Entered this 11th day of October 2018.

Commissioner Duke Alden

Commissioner Terry Cosgrove

Commissioner Rose Mary Bombela-Tobias