

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2011CA0598
)	EEOC NO.: 21BA02856
WILLIE L. COOK,)	ALS NO.: 12-0250
)	
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Duke Alden, Rose Mary Bombela-Tobias, and Terry Cosgrove¹ presiding, upon the Request for Review (“Request”) of Willie L. Cook (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)² of Charge No. 2011CA0598 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 1, 2010, Petitioner filed a charge with the Respondent alleging that the Board of Education of the City of Chicago (“Employer”) discharged him because of his age, in violation of Section 2-102(A) of the Act.

On January 26, 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 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). The Employer may then rebut the *prima facie* case by articulating a legitimate, nondiscriminatory reason for its actions, and the Petitioner must then show that this reason is pretextual. Burnham City Hospital v. Illinois Human Rights Comm’n, 126 Ill. App. 3d 999, 467 N.E.2d 635 (1984). Petitioner’s case fails at this stage: the Employer documented that he was tardy on 119 days during the 2009-10 school year, and absent an additional 24 days. Petitioner admitted that he did not conform to the work hours laid out by his supervisor, and has not proven that this reason was pretextual.

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.”

