

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: <b>2011CP1685</b>
	)	EEOC NO.: <b>N/A</b>
<b>JOSHUA MELLOTT,</b>	)	ALS NO.: <b>12-0257</b>
	)	
	)	
Petitioner.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Lauren Beth Gash, David J. Walsh, and Diane M. Viverito<sup>1</sup> presiding, upon the Request for Review (“Request”) of Joshua Mellott (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)<sup>2</sup> of Charge No. 2011CP1685 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 13, 2010, Petitioner filed a charge with the Respondent alleging that the Center on Halsted (“Center”) denied him the full and equal enjoyment of its facilities based on his mental disability and in retaliation for opposing unlawful discrimination, in violation of Sections 5-102(A) and 6-101(A) of the Act.

On February 6, 2012, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

There is no substantial evidence that the Center discriminated against Petitioner based on his mental disability. Generally, to establish a *prima facie* case of discrimination concerning a public accommodation, the Petitioner must show: 1) he is a member of a protected class; 2) he was denied full and equal enjoyment of the facilities and services; and 3) similarly situated individuals outside his protected class were treated more favorably. See In the Matter of Velma J. Henderson and Steak N Shake, Inc., IHRC, Charge No. 1996CP2939, 1999 WL 33252627, \*9 (March 24, 1994). Petitioner did not provide evidence that the Center treated people without a mental disability more favorably.

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

---

<sup>1</sup> This Order is in accordance with votes cast by Commissioners Gash, Walsh, and Viverito prior to the expiration of their terms.  
<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.”

between the protected activity and the adverse action. See Welch v. Hoeh, 314 Ill. App. 3d 1027, 1035 (3rd Dist. 2000). If the Petitioner presents a *prima facie* case, the Center 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 did not show that he complained of discrimination before the Center limited his access to its facilities on November 23, 2010. Even if he had done so, the Center produced a legitimate, nondiscriminatory reason for limiting his access: his disruptive behavior violated the Center's code of conduct. Petitioner has not proven that this reason was 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 the Center on Halsted, 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 15th day of October 2018.**  
**HUMAN RIGHTS COMMISSION** )

Commissioner Lauren Beth Gash

Commissioner Diane M. Viverito

Commissioner David J. Walsh