

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: <b>2009CN4776</b>
	)	EEOC NO.: <b>N/A</b>
<b>DONNIE REED,</b>	)	ALS NO.: <b>12-0263</b>
	)	
Petitioner.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Nabi R. Fakroddin, Lauren Beth Gash,<sup>1</sup> and Hermene Hartman presiding, upon Donnie Reed’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)<sup>2</sup> of Charge No. 2009CN4776 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 March 8, 2009, the Petitioner filed a charge of discrimination with the Respondent alleging that International Brotherhood of Teamsters, Local 710 (“Union”) failed to represent him because of his race in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”). On March 29, 2012, after vacating an earlier dismissal and remanding for further investigation, the Respondent again 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).

Typically, a *prima facie* case of race discrimination based on unequal treatment requires a showing that: (1) the Petitioner is a member of a protected classification; (2) he suffered a materially adverse act; and (3) others outside of his protected classification received more favorable treatment. In re Melvin Chapman and Howden Buffalo, Inc., Charge No. 2000SF0646, 2004 WL 3312883, \*2 (March 19, 2004).

<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.”

The Petitioner cannot satisfy the second and third prongs of his *prima facie* case of race discrimination. The Petitioner cannot prove that he suffered a materially adverse action because he did in fact receive union representation throughout his grievance process. Though his case was ultimately dismissed by the Grievance Committee as untimely filed, the unfavorable outcome does not change the fact that he was represented by the Union. Further, the Petitioner cannot point to another union member outside of his protected class who received more favorable treatment. The co-worker that the Petitioner uses for a comparison has never filed an untimely grievance.

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 International Brotherhood of Teamsters, Local #710 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 1st day of November 2018.**  
**HUMAN RIGHTS COMMISSION** )

Commissioner Nabi R. Fakroddin

Commissioner Lauren Beth Gash

Commissioner Hermene Hartman