

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2011CA2766
)	EEOC NO.: 21BA11323
CHERYL PARKER,)	ALS NO.: 12-0285
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Nabi Fakroddin, Lauren Beth Gash¹, and Hermene Hartman presiding, upon Cheryl Parker's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")² of Charge No. 2011CA2766 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 December 16, 2010, the Petitioner filed a charge of discrimination with the Respondent alleging that Savanna-Thompson State Bank ("Employer") placed her on administrative leave and discharged her due to her age and disability, and also discharged her in retaliation for opposing unlawful discrimination, in violation of Sections 2-102(A) and 6-101(A) of the Illinois Human Rights Act ("Act"). On January 5, 2012, the Respondent 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).

Generally, to establish a *prima facie* case of discrimination, the Petitioner must show: 1) she is a member of a protected class; 2) she was performing her job satisfactorily; 3) she was subject to an adverse action; and 4) the Employer treated a similarly situated employee outside her 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). Once the Employer articulates a legitimate and nondiscriminatory

¹ This Order is in accordance with a vote cast by Commissioner Gash prior to the expiration of her 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."

reason for its actions, the Petitioner must establish that the articulated reason is a pretext for unlawful discrimination. Id.

With regard to the age and disability discrimination claims, the Petitioner did not establish that similarly situated employees who also were accused of financial improprieties were treated more favorably. Moreover, with regard to the claims alleging discharge, the Petitioner did not establish that she was, in fact, discharged. Rather, the substantial evidence showed that the Petitioner voluntarily resigned. Finally, the evidence suggests that the Employer acted in good faith and not due to a discriminatory motive. The Commission finds no evidence of pretext, and in the absence of pretext, the Commission cannot substitute its judgment for the Employer's business judgment. Berry and State of Illinois, Dep't of Mental Health and Developmental Disabilities, Charge No. 1994SA0240 (Dec. 10, 1997).

Generally, to prove a *prima facie* case of retaliation, the Petitioner must prove: 1) she engaged in a protected activity; 2) she experienced an adverse job action; and 3) there was a causal nexus between the protected activity and the adverse job action. Welch v. Hoeh, 314 Ill. App. 3d 1027, 1035, 733 N.E.2d 410, 416 (3^d Dist. 2000). In this case, the Petitioner cannot establish a causal nexus between her protected activity (her alleged June 2010 complaint about discrimination to the Employer's president) and any discipline she received because the internal investigation regarding her financial improprieties, which led to her discipline, began in February 2010, well before the protected activity.

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.

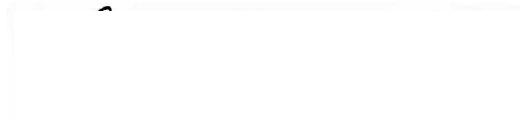
THEREFORE, IT IS HEREBY ORDERED THAT:

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 Savanna-Thompson State Bank 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 2nd day of October 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Nabi Fakroddin

Commissioner Lauren Beth Gash



Commissioner Hermene Hartman