

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2011CA2048
)	EEOC NO.: 21BA10821
BEVERLY ROBINSON,)	ALS NO.: 12-0327
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Diane M. Viverito,¹ Robert A. Cantone, and Michael Bigger presiding, upon Beverly Robinson's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")² of Charge No. 2011CA2048 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 January 20, 2011, the Petitioner filed a charge of discrimination with the Respondent alleging that the University of Chicago ("Employer") placed her on a performance improvement plan due to her race, age, sex, and disability in violation of Section 2-102(A) of the Illinois Human Rights Act ("Act"). On February 28, 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).

To establish a *prima facie* case of employment discrimination, the Petitioner must show that: 1) she is a member of a protected group; 2) she performed her job satisfactorily; 3) the employer took adverse action against her despite the adequacy of her work; and 4) a similarly situated employee, who is not a member of the protected group, was not subjected to the same adverse action. Anderson v. Chief Legal Counsel, 334 Ill. App. 3d 630, 634 (3d Dist. 2002). Once the Petitioner establishes a *prima facie* case of discrimination, then the burden shifts to the Employer to rebut the

¹ This Order is in accordance with a vote cast by Commissioner Viverito 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."

presumption of discrimination and articulate a non-discriminatory reason for its employment action. McDonald Douglas Corp. v. Green, 411 U.S. 792 (1973); adopted by Illinois Supreme Court in Zaderaka v. Human Rights Comm., 131 Ill. 2d 172, 179 (1989). The Petitioner must then show that the Employer's articulated reason for its employment action was a mere pretext. Id.

There is no substantial evidence that Petitioner was placed on a performance improvement plan due to her race, sex, age, or disability. As revealed in the investigation, and detailed in Respondent's Response to the Request, the Petitioner's supervisor, Dr. Spencer, provided numerous examples of the Petitioner's work not meeting legitimate expectations. Further, the Petitioner is unable to point to any similarly situated employees who were given more favorable treatment. The Petitioner's Request attempts to draw comparisons between her and another coworker, Latasha Sawyer. However, Sawyer does not report directly to Dr. Spencer, and Dr. Spencer has no control over Sawyer's employment conditions. Nor was any evidence provided that Sawyer was derelict in her duties in any way. The only employee the Petitioner could point to as being similarly situated would be Dr. Spencer's previous secretary, who was discharged due to performance issues without even being given the benefit of a performance improvement plan. The Employer has articulated a legitimate, non-discriminatory reason for the implementation of a performance improvement plan, and the Petitioner has not presented any evidence that that reason is a mere pretext.

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 University of Chicago 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 26th day of October 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Diane M. Viverito

Commissioner Robert A. Cantone

Commissioner Michael Bigger