

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2011CF3020
)	EEOC NO.: 21BA11520
CARMEN CAROTHERS,)	ALS NO.: 12-0330
)	
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 Carmen Carothers's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")² of Charge No. 2011CF3020 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 April 12, 2011, the Petitioner filed a charge of discrimination with the Respondent alleging that Cook County Juvenile Temporary Detention Center ("Employer") subjected her to unequal terms and conditions of employment in retaliation for filing previous charges of discrimination in violation of Section 6-101(A) of the Illinois Human Rights Act ("Act"). On March 2, 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 prove a *prima facie* case of retaliation, the Petitioner must prove the following three elements: (1) Petitioner engaged in a protected activity, (2) the employer took an adverse action against her, and (3) there was a causal nexus between the protected activity and the adverse action. Carter Coal Co. v. Human Rights Commission, 261 Ill. App. 3d 1, 7 (5th Dist. 1994).

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."

The Petitioner is unable to satisfy the third prong of the retaliation analysis, as there is no substantial evidence that Petitioner was subjected to unequal terms and conditions of employment in retaliation for her previous charges of discrimination. The investigation conducted by the Respondent confirmed that the Petitioner was required to use her accrued sick time until her disability benefits had been approved; however, there is no proof that this action was taken as a result of any protected activity taken by the Petitioner. The investigation revealed that at the time the Petitioner was absent from work, she had been denied workers' compensation benefits, and her disability benefits had not been approved, so any time off of work was an unexcused absence. The Employer's actions were consistent with the rules and regulations for all union employees, and the Petitioner was not able to point to a similarly situated employee who had been treated in a different manner.

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 Cook County Juvenile Temporary Detention Center 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