

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2011CA2529
)	EEOC NO.: 21BA11165
JOYCE DRAKE,)	ALS NO.: 12-0400
)	
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Duke Alden, Patricia Bakalis Yadgir, and Terry Cosgrove¹ presiding, upon the Request for Review (“Request”) of Joyce Drake (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)² of Charge No. 2011CA2529 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 March 3, 2011, the Petitioner filed a charge of discrimination with the Respondent alleging that Johnson Publishing Company, Inc. (“Employer”) eliminated her position because of her age, 45 years old, in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”). Petitioner was working as a regional sales manager, and her job was eliminated during a company reorganization.

On April 5, 2012, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

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 work 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, (2d Dist. 1994). Petitioner’s claim fails at the fourth prong. She submitted names of younger employees who positions were not eliminated, and who assumed her duties after her position was eliminated, but these employees were only slightly younger than her (or in one case, much older). The *prima facie* case requires sufficient disparity in ages to infer age discrimination. Hartley v. Wisconsin Bell, Inc., 124 F.3d 887, 892 (7th Cir. 1997). Petitioner has not presented evidence that the elimination of her position was due to her age, rather than a corporate desire to increase revenue.

¹ This Order is in accordance with a vote cast by Commissioner Cosgrove prior to the expiration of his 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.”

