

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2011CN3833
)	EEOC NO.: N/A
REBECCA RUFFIN,)	ALS NO.: 12-0428
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Diane M. Viverito,¹ Michael Bigger, and Amy Kurson presiding, upon Rebecca Ruffin's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")² of Charge No. 2011CN3833 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 June 27, 2011, the Petitioner filed a charge of discrimination with the Respondent alleging that William Fleke ("Fleke") subjected her to sexual harassment in violation of Section 2-102(D) of the Illinois Human Rights Act ("Act"). On April 20, 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).

Under the Act, sexual harassment is defined broadly as follows: any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or 3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. 775 ILCS 5/2-101(E). Occasional, isolated, casual or trivial remarks of a sexual

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."

nature do not constitute sexual harassment under the Act. In re Susan P. Farmer and Harper Oil Co., Charge No. 1996SF0604, 1997 WL 680633, *7 (October 2, 1997).

There is no substantial evidence that Petitioner was subjected to a hostile work environment. The Petitioner pointed to three incidents that are trivial in nature, and not pervasive enough to create a hostile work environment. The Petitioner recounted an incident where Fleke was discussing the sexual content of a radio show that he had been listening to. She also stated that she had once thanked him for having her back, and he responded with “Oh baby, I got your back, your front, your side.” Finally, the Petitioner alleged that Fleke left a pornographic magazine in a common area for her to see when she relieved him for lunch. This last incident was investigated by the Employer and Fleke was disciplined for it. Taken together, these allegations do not constitute harassment that is severe or pervasive enough to create a work environment that is hostile or abusive. Cook County Sheriff’s Office v. Cook County Comm’n on Human Rights, 2016 IL App (1st) 150718, ¶ 32.

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 William Fleke 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 Diane M. Viverito

Commissioner Michael Bigger

Commissioner Amy Kurson