

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2011CF0591
)	EEOC NO.: 21BA02851
RONI SCHAFFER,)	ALS NO.: 12-0463
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Chair Rose Mary Bombela-Tobias and Commissioners Nabi R. Fakroddin and Hermene Hartman presiding, upon Roni Schaffer’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2011CF0591 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 August 31, 2010, the Petitioner filed a charge of discrimination with the Respondent alleging that Village of Barrington (“Employer”) harassed her and subjected her to unequal terms and conditions at the workplace because of her disability, and denied her a transfer and discharged her because of her disability and 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 April 25, 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).

For Petitioner to prove discriminatory harassment, she must establish that she was harassed on the basis of her disability and that the harassment was so severe or pervasive that it altered the conditions of her employment and created an abusive environment. In re Luisa Tapia, et al. and Genlyte Thomas Group, IHRC, Charge No. 2000CF0871, 2002 WL 32828305 (December 16, 2002).

¹ 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's charge and her statements made during the investigation indicate that the incidents of harassment on which she is basing her charge are not severe or pervasive enough to rise to the level of actionable harassment. The Petitioner states that her supervisor asked her to make sure her desk was covered if she would be using the bathroom more frequently, and requested a doctor's note to document her disability. She stated that she was reprimanded for wearing inappropriate clothing, and her supervisor told her that she needed to paint her house if she wanted to avoid being fined. She also stated that her supervisor told her she needed to refill the copier paper, and that she did not believe this should be her job. Nothing in the investigation indicates that these incidents are hostile enough to alter the conditions of Petitioner's employment or create an abusive environment.

To establish a *prima facie* case of employment 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, 253 (2d Dist. 1994).

In Petitioner's charge, she states that she was subject to unequal terms and conditions of employment due to her disability. She states that she was assigned jobs that were not hers, given difficult jobs that would aggravate her disability, and given assignments without proper instructions on how to complete them. The job description for the Petitioner's position covers a wide range of office and clerical tasks, including the tasks her supervisor assigned her to do. Further, the Petitioner cannot point to another office assistant who was not disabled who was not given these tasks to do.

Petitioner's charge further alleges that she was denied a transfer based on her disability and in retaliation for opposing unlawful discrimination. The investigation revealed that Petitioner had applied for an open position in the Public Works Department, and was not offered an interview. The Director of Public Works stated that he had received a significant number of applications for the position, and that Petitioner had applied late in the process. He pointed out the qualifications of the candidate who was hired that the Petitioner does not possess. The investigation did not reveal any evidence that the Petitioner's supervisors had any control over the hiring process, that the Public Works Department had any knowledge of her disability or of her protected activity, or that the Department's reason for hiring another candidate was mere pretext.

Lastly, the Petitioner's charge states that she was discharged due to her disability and in retaliation for opposing unlawful discrimination. Again, the investigation does not bear this out. The Petitioner cannot establish an essential element of her discrimination charge: that she was performing her job satisfactorily. The investigation revealed a history of incident reports documenting that the Petitioner had been reprimanded for her argumentative and unprofessional nature. These incidents included the Petitioner becoming angry when she was instructed to do certain tasks, and yelling at her supervisor. Petitioner's Employer articulated a legitimate, non-discriminatory basis for discharging

