

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2012CA0141
)	EEOC NO.: 21BA12273
LARRY T. MUHAMMAD,)	ALS NO.: 12-0510
)	
)	
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 Larry T. Muhammad (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)² of Charge No. 2012CA0141 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 July 19, 2011, the Petitioner filed a charge of discrimination with the Respondent alleging that Amalgamated Transit Union Local 241 (“Employer”) subjected him to unequal terms and conditions of employment based on his age, religion, 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”). Petitioner had been acting as a vice-president of Employer, a labor union, and had filed a previous charge of discrimination against Employer on October 14, 2010. In 2011, he announced his intent to retire effective June 30, 2011. He asked Employer to give him five weeks of paid vacation, and Employer refused, explaining that he had used up all of his paid vacation time during the previous year, and new vacation time would not accrue until July 1, 2011, after he had retired.

On June 20, 2012, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

To present a *prima facie* case that Employer discriminated against him, Petitioner must show: 1) he is a member of a protected class; 2) he was performing his work satisfactorily; 3) he was subject to an adverse action; and 4) the Employer treated a similarly situated employee outside his protected class more favorably under similar circumstances. Marinelli v. Human Rights Comm’n, 262 Ill. App. 3d 247, 253-54 (2d Dist. 1994). Petitioner did not present evidence of any similarly-situated

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.”

employees who were granted paid vacation for the time after their retirement date. Even if Petitioner had presented a *prima facie* case, Employer produced a legitimate, nondiscriminatory reason (Petitioner was retiring before accruing paid vacation time for the year 2011-12) for its action. Zaderaka v. Illinois Human Rights Comm'n, 131 Ill. 2d 172, 179 (1989). Petitioner has not shown that this was pretextual. Id.

A *prima facie* case of retaliation requires evidence that the Petitioner engaged in a protected activity, that they suffered an adverse action, and that there is evidence of a causal connection between the protected activity and the adverse action. See Welch v. Hoeh, 314 Ill. App. 3d 1027, 1035 (3rd Dist. 2000). A causal connection will be inferred if the period of time between the protected activity and the adverse action is sufficiently short. The eight months between Petitioner's previous charge and the Employer's action is too long to infer a causal nexus. See Mitchell and Local Union, 146, 20 Ill. HRC Rep. 101, 110-11 (1985) (six months was too remote to establish connectedness).

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 Amalgamated Transit Union Local 241, 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 30th day of November 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Duke Alden

Commissioner Terry Cosgrove

Commissioner Patricia Bakalis Yadgir