

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2011CA1407
)	EEOC NO.: 21BA10367
VIRGINIA R. WHITE,)	ALS NO.: 12-0546
)	
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 Virginia R. White's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")² of Charge No. 2011CA1407 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 November 16, 2010, the Petitioner filed a charge of discrimination with the Respondent alleging that Covenant Village of Northbrook ("Employer") harassed her and discharged her because of her race, age, and disability in violation of Section 2-102(A) of the Illinois Human Rights Act ("Act"). On April 4, 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 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 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).

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."

In order to prove discriminatory harassment, a complainant must establish that she was harassed on the basis of her membership in a protected class 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).

There is no substantial evidence that Petitioner was subjected to a hostile work environment or discharged due to her membership in any of her claimed protected classes. The Petitioner stated during the investigation that her supervisor harassed her by accusing her of provoking a coworker, turning her words around, and scrutinizing her job performance more than that of her coworkers. The Petitioner also alleged that her supervisor wrote her up and withheld a raise from her. None of the alleged behavior is severe or pervasive enough to rise to the level of actionable harassment.

As to the Petitioner's discharge, the investigation did not reveal a similarly situated employee who had engaged in the same behavior as the Petitioner but was not discharged for it. Further, the Employer articulated a legitimate, non-discriminatory reason for the Petitioner's discharge. The Petitioner had grabbed medication from a coworker and then spoke to her in a manner the coworker believed to be threatening. Even if the coworker's version of events is not an accurate reflection of what actually happened, as long as the Employer believed it in good faith, this belief is sufficient to rebut a charge of discrimination. Shah v. Illinois Human Rights Comm'n, 192 Ill. App. 3d 263, 273-74 (1st Dist. 1989).

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 Covenant Village of Northbrook 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 9th day of November 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Diane M. Viverito

Commissioner Michael Bigger

Commissioner Amy Kurson