

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2011CF3261
)	EEOC NO.: 21BA11685
ROSHAUN D. WILSON,)	ALS NO.: 12-0556
)	
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 Roshaun D. Wilson's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")² of Charge No. 2011CF3261 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 February 19, 2011, the Petitioner filed a charge of discrimination with the Respondent alleging that Illinois Bell Telephone Company d/b/a AT&T ("Employer") suspended him because of his physical disabilities in violation of Section 2-102(A) of the Illinois Human Rights Act ("Act"). On June 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) he is a member of a protected class; 2) he was performing his job 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 (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."

There is no substantial evidence that Petitioner was suspended due to his physical disabilities. Rather, the investigation revealed that the Petitioner was suspended for his repeated violations of the Employer's attendance policy. The Petitioner's history of discipline includes multiple verbal and written warnings, as well as one prior suspension, all for violations of the attendance policy. The investigation did not reveal, and the Petitioner cannot point to, a non-disabled employee who was not similarly disciplined for violating the attendance policy. Because all of the discipline imposed by the Employer was in accordance with its attendance policy, and the Petitioner cannot point to a non-disabled employee who was treated more favorably than he was, he cannot establish the necessary elements of his discrimination claim.

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 Illinois Bell Telephone d/b/a AT&T 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