

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: <b>2011CA2701</b>
	)	EEOC NO.: <b>21BA11280</b>
<b>LEOLA M. ROGERS,</b>	)	ALS NO.: <b>12-0558</b>
	)	
Petitioner.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Nabi R. Fakroddin, Hermene Hartman, and Lauren Beth Gash<sup>1</sup> presiding, upon Leola M. Rogers's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")<sup>2</sup> of Charge No. 2011CA2701 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 December 16, 2010, the Petitioner filed a charge of discrimination with the Respondent alleging that E.C. Schultz & Company, Inc. ("Employer") forced her to retire because of her age 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) 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).

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<sup>1</sup> This Order is in accordance with a vote cast by Commissioner Gash prior to the expiration of her term.

<sup>2</sup> 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 forced to retire due to her age. The investigation revealed that Petitioner's Employer told her it was time for her to "phase back and retire" in September 2010. The Employer explained during the investigation that this was largely due to the increasingly frequent bookkeeping mistakes the Petitioner had been making. Additionally, the company was downsizing due to decreasing sales. The Employer discharged seven employees between November 2010 and March 2011, all but one of whom were younger than the Petitioner, and one of whom was under the age of 40. The Employer stated that it was due both to her declining performance and the company's financial situation that the Petitioner was ultimately terminated on March 29, 2011.

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 E.C. Schultz & Company, Inc. 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 13th day of November 2018.**  
**HUMAN RIGHTS COMMISSION** )

Commissioner Nabi R. Fakroddin, P.E., S.E.

Commissioner Hermene Hartman

Commissioner Lauren Beth Gash