

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2010CF2778
)	EEOC NO.: 21BA01394
GUADALUPE FREGOSO,)	ALS NO.: 12-0587
)	
)	
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 Guadalupe Fregoso (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)² of Charge No. 2010CF2778 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 March 3, 2010, the Petitioner filed a charge of discrimination with the Respondent alleging that GCA Service Group (“Employer”) discharged her due to her physical disability, in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”). Petitioner was working as a custodian on November 22, 2009, when she argued with a coworker, who pushed her and caused her to fall, hurting her knee. On December 9, 2009, Employer discharged Petitioner and the coworker.

On May 11, 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 her because of her disability, Petitioner must show: 1) she is a member of a protected class; 2) she was performing her work 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, 253-54 (2d Dist. 1994). Petitioner has not presented any evidence as to the fourth prong. Even if she presented a *prima facie* case, the Employer has produced a legitimate, nondiscriminatory reason for its action. Zaderaka v. Illinois Human Rights Comm’n, 131 Ill. 2d 172, 179 (1989). Petitioner admitted in a written statement that she had tried to slap the coworker before he pushed her, so Employer discharged both of them for violating

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.”

Employer's policy against fighting. Petitioner has not proven that this reason is a pretext for discrimination. Id.

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 GCA Service Group, 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 2nd day of November 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Duke Alden

Commissioner Terry Cosgrove

Commissioner Patricia Bakalis Yadgir