

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2011CN4016
)	EEOC NO.: N/A
ANJLI SANDHIR,)	ALS NO.: 12-0611
)	
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Hamilton Chang, Steve Kim, and Robert A. Cantone presiding, upon the Request for Review (“Request”) of Anjali Sandhir (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2011CN4016 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 March 8, 2011, the Petitioner filed a charge of discrimination with the Respondent alleging that School District #131 Aurora (“Employer”) discharged her because of her race, ancestry, physical disability, 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, a teacher, went on medical leave in September 2008, and received disability benefits starting in November 2008. She did not return to work, and in January 2011 Employer terminated her.

On August 27, 2011, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

To show a *prima facie* case that Employer discriminated against her based on her race and ancestry, 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). The Employer may then produce a legitimate, nondiscriminatory reason for its action, and Petitioner must prove that this reason is a pretext for discrimination. Zaderaka v. Illinois Human Rights Comm’n, 131 Ill. 2d 172, 179 (1989). Employer asserts that it discharged Petitioner because she had been on leave for over two

¹ 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.”

years, while the collective bargaining agreement stated that Employer could only grant up to eighteen months of leave. Petitioner has not shown that this was pretextual.

Petitioner's claim that she was discharged due to her disability also fails. She must show: (1) that she is disabled within the meaning of the Act; (2) the employer had knowledge of the disability; (3) the Petitioner suffered an adverse employment action; and (4) the disability is unrelated to Petitioner's ability to perform the job with or without an accommodation. Habinka v. Human Rights Commission, 192 Ill.App.3d 343, 373 (1st Dist. 1989). The Employer may then state a legitimate nondiscriminatory reason for the discharge, and Petitioner must prove that this reason is a pretext for discrimination. Id. at 372. Again, Petitioner has not proven that Employer's proffered reason (that Petitioner had been on leave in excess of the time allowed by the collective bargaining agreement) was pretextual.

Petitioner asserts that in November 2008, she complained that the superintendent had sexually harassed another teacher. 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). Her claim fails at this point. A causal connection will be inferred if the period of time between the protected activity and the adverse action is sufficiently short. See Mitchell and Local Union, 146, 20 Ill. HRC Rep. 101, 110-11 (1985) (six months was too remote to establish connectedness). Petitioner has not shown a causal nexus between her 2008 complaint of sexual harassment and the discharge over two years later. See Lynell Mims and State of Illinois, Illinois Department of Lottery, Charge No. 1989CF1141, 1998 WL 937898 (December 17, 1998). (nineteen-month time period between protected activity and adverse action too long to create an inference of retaliation).

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 School District #131 Aurora as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS)
)
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Entered this 9th day of November 2018.

Commissioner Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Steve Kim