

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2012CA0239
)	EEOC NO.: 21BA12376
VINCENZO R. FARAONE,)	ALS NO.: 12-0624
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commission Chair Rose Mary Bombela-Tobias and Commissioners Nabi R. Fakroddin and Hermene Hartman presiding, upon Vincenzo R. Faraone’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2012CA0239 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 May 6, 2011, the Petitioner filed a charge of discrimination with the Respondent alleging that Abbott Molecular, Inc. (“Employer”) harassed him and constructively discharged him because of his age, his mental disabilities, and in retaliation for opposing unlawful discrimination in violation of Section 2-102(A) and 6-101(A) of the Illinois Human Rights Act (“Act”). On June 28, 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).

In order to prove discriminatory harassment, the Petitioner must establish that he was harassed on the basis of his membership in a protected class and that the harassment was so severe or pervasive that it altered the conditions of his 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). Constructive discharge occurs when an employer deliberately

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.”

makes an employee's working conditions so intolerable that the employee is forced to resign involuntarily. Steele v. Illinois Human Rights Comm'n, 160 Ill. App. 3d 577, 581 (3d Dist. 1987).

There is no substantial evidence that Petitioner was subjected to a hostile work environment or constructively discharged due to his membership in any protected class. The Petitioner's charge states only that a manager's "harassing actions" created a hostile work environment, and that these harassing and discriminatory conditions forced him to resign. The Petitioner stated during the investigation that, while he was on leave, a manager sent him an email criticizing his work performance and called him to discuss putting him on a Performance Improvement Plan if he returned to work. The Petitioner also stated that an Employee Relations specialist contacted him about a possible buy out if he did not return to work. These incidents are all legitimate, work-related actions taken by the Employer, and none of them rise to the level of actionable harassment. Contacting an employee about his possible return to work is not severe and pervasive harassment that creates an abusive environment.

The same analysis applies to the Petitioner's constructive discharge counts. The contacts from the manager and the Employee Relations specialist do not make the Petitioner's working conditions so intolerable that he is forced to resign. The investigation included a copy of the email from the manager that Petitioner alleges is harassing, and the Petitioner is not even specifically named in it. It is a general email to a list of employees counseling them on their job performance. The manager who sent it even reported to the Respondent's investigator that he did not think the Petitioner would receive the email while he was on leave.

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 Abbott Molecular, Inc. as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS)
)
HUMAN RIGHTS COMMISSION)

Entered this 16th day of November 2018.

Chair Rose Mary Bombela-Tobias

Commissioner Nabi R. Fakhroddin

Commissioner Hermene Hartman