

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2012CF1197
)	EEOC NO.: 21BA20228
MELANIE FELT,)	ALS NO.: 12-0630
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Michael Bigger, Amy Kurson, and Cheryl Mainor presiding, upon Melanie Felt’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2012CF1197 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 October 31, 2011, the Petitioner filed a charge of discrimination with the Respondent alleging that HSBC-North America Holdings, Inc. (“Employer”) issued her a written warning, denied her a bonus, and discharged her because of her race, sex, and in retaliation for filing a previous charge of discrimination in violation of Sections 2-102(A) and 6-101(A) of the Illinois Human Rights Act (“Act”). On July 16, 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).

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.”

To prove a *prima facie* case of retaliation, the Petitioner must prove the following three elements: (1) Petitioner engaged in a protected activity, (2) the employer took an adverse action against her, and (3) there was a causal nexus between the protected activity and the adverse action. Carter Coal Co. v. Human Rights Commission, 261 Ill. App. 3d 1, 7 (5th Dist. 1994).

Petitioner's charge first alleges that she was issued a written warning because of her race, sex, and in retaliation for filing a charge of discrimination. The investigation revealed that the Petitioner was issued a written warning because of work performance issues. She was observed violating the Employer's Phone Professionalism Policy, and was given a final written warning. The Employer stated that it issued this discipline to the Petitioner because it had issued the same discipline to other employees, some of whom were not in the Petitioner's protected classes. Thus, the Petitioner cannot prove that a similarly situated employee not in her protected classes was treated more favorably. Further, there is no indication of a retaliatory motive connected to this discipline. The Petitioner was observed violating company policy, and was disciplined within the dictates of the Employer's progressive discipline policy.

Petitioner's charge next alleges that she was denied a bonus because of her race, sex, and in retaliation for filing a charge of discrimination. The investigation revealed that the Petitioner was not given the bonus money because of the final written warning that had been issued. The Employer stated that it is its policy not to award bonuses for 30 days from the date of the discipline. The investigation did not reveal, nor did the Petitioner point to, an employee outside of her protected classes who was awarded a bonus within 30 days of discipline. Thus, the Petitioner cannot demonstrate that the bonus was denied for any discriminatory or retaliatory motive.

The charge also alleges that the Petitioner was discharged because of her race, sex, and in retaliation for filing a charge of discrimination. The Petitioner cannot satisfy the *prima facie* elements of her claim, as she cannot prove that she was performing her job satisfactorily, and she cannot point to a similarly situated employee outside of her protected classes who was treated more favorably. The investigation revealed that after having been issued a final written warning, the Petitioner was disciplined again for being rude to a customer. The investigation did not produce any evidence of an employee who had broken the Phone Professionalism Policy multiple times who was not terminated.

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,

