

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2010CN4382
)	EEOC NO.: 846-2010-28063
GLEND A. MONDAY,)	ALS NO.: 12-0643
)	
)	
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 Glenda E. Monday (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2010CN4382 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 June 28, 2010, the Petitioner filed a charge of discrimination with the Respondent alleging that OSF Saint Anthony Medical Center (“Employer”) denied her a reasonable accommodation and discharged her because of her physical disability (mitral valve prolapse), in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”). Petitioner, a surgical technician, was diagnosed in 1981. Employer required her to be recertified in performing CPR every two years, but Petitioner experienced pain from her disability when she performed CPR chest compressions on a dummy. From 1983 until 2007, Petitioner was recertified by describing how to perform CPR on the dummy, rather than actually performing the chest compressions. In 2008, Employer changed its policy and required employees to perform chest compressions on the dummy in order to be recertified in CPR. Petitioner’s physician informed Employer that Petitioner was capable of performing CPR on live patients if necessary, but not on the dummy for recertification. After warning Petitioner several times that recertification was required to retain her job, Employer discharged her. On July 16, 2012, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

Petitioner has failed to present a *prima facie* case that Employer failed to accommodate her disability. She must show 1) the petitioner is disabled within the meaning of the Act; 2) the employer had knowledge of the petitioner’s disability; 3) the petitioner requested a reasonable accommodation; 4) the employer failed to accommodate the petitioner; and 5) with or without a reasonable accommodation, the petitioner could perform the essential functions of the job. Illinois Dep’t of

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.”

Corrections v. Illinois Human Rights Comm'n, 298 Ill. App. 3d 536, 540 (3d Dist. 1998). Petitioner's claim fails at the third and fifth prongs. She has not shown that allowing her to recertify in CPR without actually performing it was reasonable, or that she could perform the essential functions of her job without being certified (or able to perform the chest compressions). The Commission will not second-guess Employer's determination that the ability to perform CPR is an "essential function" of the job of surgical technician, or that it needs proof of that ability rather than a verbal description. Mechnig v. Sears, Roebuck & Co., 864 F.2d 1359, 1365 (7th Cir.1988) (citations omitted).

Petitioner has not presented a *prima facie* case that Employer discriminated against her by discharging her because of her physical disability. She 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 evidence of any other employees who were not discharged after failing to recertify in CPR. Further, even if she had presented a *prima facie* case, the Employer has produced a legitimate, nondiscriminatory reason for its action (the need for surgical technicians to be certified in CPR), and Petitioner has not proven that this reason is a pretext for discrimination. Zaderaka v. Illinois Human Rights Comm'n, 131 Ill. 2d 172, 179 (1989).

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 OSF Saint Anthony Medical Center 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 16th day of November 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Steve Kim