

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: <b>2012CF1586</b>
	)	EEOC NO.: <b>21BA20473</b>
<b>ROBERTA OLIVARES,</b>	)	ALS NO.: <b>12-0659</b>
	)	
	)	
Petitioner.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Duke Alden, Charlene Foss-Eggemann,<sup>1</sup> and Patricia Bakalis Yadgir presiding, upon the Request for Review (“Request”) of Roberta Olivares (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)<sup>2</sup> of Charge No. 2012CF1586 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 December 6, 2011, the Petitioner filed a perfected charge of discrimination with the Respondent alleging that RT&T Enterprises, Inc. (“Employer”) subjected her to sexual harassment (Count A), harassed her because of her sex (Count B), and discharged her in retaliation for opposing unlawful discrimination and because of her sex (Counts C and D), in violation of Sections 2-102(A), 2-102(D), and 6-101(A) of the Illinois Human Rights Act (“Act”). Petitioner was hired on February 14, 2011, as a human resources director tasked with recruiting and hiring new employees. She was discharged on May 6, 2011.

On September 13, 2012, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

In Count A, Petitioner alleges that a male manager sexually harassed her by repeatedly referring to another male employee as a “prick.” This does not meet the standard for sexual harassment: “conduct of a sexual nature” which “substantially interfer[es] with an individual’s work performance or creat[es] an intimidating, hostile, or offensive working environment.” 775 ILCS 5/2-101(E). “Isolated and/or trivial remarks of a sexual nature” do not meet this standard. Gleason v. Mesirow Financial, Inc., 118 F.3d 1134, 1143 (7th Cir. 1997).

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<sup>1</sup> This Order is in accordance with a vote cast by Commissioner Foss-Eggemann prior to the expiration of her term.  
<sup>2</sup> 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.”

As to Count B, Petitioner has not presented a case that she was harassed because of her sex. She alleges that one of the managers repeatedly called her “hon,” and another said that Petitioner was “a bit too brassy for my taste.” Harassment must be so severe and pervasive that it alters the conditions of employment and creates an abusive working environment. Harris v. Forklift Systems, Inc., 510 U.S. 17, 20 (1993). These comments, standing alone, are not severe and pervasive.

As to Count C, Petitioner alleges that she was discharged after complaining about the above harassment, notifying management that other coworkers had used ethnic slurs, and warning management not to discriminate in hiring based on race or age. 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). Even if Petitioner presents a *prima facie* case, Employer may 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 Petitioner was discharged for failing to follow required processes in hiring new employees, failing to cooperate with coworkers, and trying to manipulate her hours to obtain paid time off, to which she was not entitled. These assertions are supported by emails. Petitioner has not shown that these reasons were pretextual. The Commission does not sit as a “super-personnel department” to examine an employer’s business decisions, even if those decisions seem “high-handed” or “mistaken.” 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 discharged her because of her sex (Count D). 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’s case fails at the fourth prong, as she has not presented evidence of any similarly-situated male employees who were not discharged. And again, she has not proven that Employer’s proffered reasons for discharging her were pretextual. Zaderaka, 131 Ill. 2d at 179. Further, the fact that Employer hired Petitioner only a few months before indicates that there was no sex-based animus in discharging her later on. Harris v. Warrick County Sheriff’s Dept., 666 F.3d 444, 449 (7<sup>th</sup> Cir. 2012).

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 RT&T Enterprises, Inc., 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 Duke Alden

Commissioner Charlene Foss-Eggemann

Commissioner Patricia Bakalis Yadgir