

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: <b>2012SF3531</b>
	)	EEOC NO.: <b>21BA21851</b>
<b>THOMAS BOWMAN,</b>	)	ALS NO.: <b>12-0668</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 Thomas Bowman (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)<sup>2</sup> of Charge No. 2012SF3531 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 March 20, 2012, the Petitioner filed a charge of discrimination with the Respondent alleging that Meda Pharmaceuticals (“Employer”) discharged him due to his physical disability, in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”). Petitioner was working as a maintenance operator; after knee surgery, his physician restricted him from squatting, kneeling, or crawling. Petitioner was never released to work without restrictions. His job description included climbing ladders, kneeling, bending, and pushing, pulling, or lifting one hundred pounds. Employer discharged him on October 12, 2011.

On October 18, 2012, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

To present a *prima facie* case that Employer discriminated against him because of his disability, he must show: (1) that he 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). Here, Petitioner’s disability is directly related to his ability to perform the job, as many aspects of his job description were expressly prohibited by his physician, who never released him to work without restrictions.

---

<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.”

Petitioner argues that Employer should have allowed him to work “light duty,” but Employers are not obligated to retain an employee if that employee is medically unable to return to their assigned position. La Porte v. Jostens, Inc., 213 Ill. App. 3d 1089, 1093 (1991).

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 Meda Pharmaceuticals, 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