

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2011CA3553
)	EEOC NO.: 21BA11906
SYLESTER LOGGINS,)	ALS NO.: 12-0681
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Nabi R. Fakroddin, Hermene Hartman, and Eleni Bousis presiding, upon Sylester Loggins’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2011CA3553 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 August 19, 2011, the Petitioner filed a charge of discrimination with the Respondent alleging that Frontier Airlines (“Employer”) harassed her due to her age and disabilities, issued her a verbal reprimand because of her disabilities, and subjected her to unequal terms and conditions of her employment due to her age in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”). On August 9, 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 she was harassed on the basis of her membership in a protected class and that the harassment was so severe or pervasive that it altered the conditions of her 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).

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.”

The Petitioner did not allege conduct sufficient to meet the requirement of severe and pervasive harassment that alters the conditions of her employment and creates an abusive environment. The Petitioner alleged in the charge and during the investigation that someone from the Employer would call her at home every day she was out sick. The Employer explained that these phone calls were necessary if an employee did not give enough information to explain her absence. Even if the phone calls were not necessary, as the Employer said they were, they would not rise to the level of actionable harassment.

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).

The Petitioner has not established that the verbal warning was issued to her because of her disabilities. The Employer issued the verbal warning to the Petitioner because she missed training, and the verbal warning was the same discipline issued to other employees who had also missed training. The Petitioner stated that she missed the training because of her disabilities, but there is no evidence that the Employer was given notice of this prior to the training. The investigation did not reveal any non-disabled employees who were not given verbal warnings for missing trainings.

The Petitioner complains in her charge of unequal job conditions, specifically that the Employer denied her the opportunity to trade hours, denied her the opportunity to bid on a more favorable schedule, and denied her a salary increase. The investigation revealed either that these things did not happen, or that there was a non-discriminatory reason for them not happening. As to the allegations regarding trading hours, the Employer explained that the Petitioner had requested to trade hours for three days. The request was granted for one of these days and denied for the other two because the employee she was asking to trade hours with was not of the same job category as the Petitioner. Regarding the allegations that the Petitioner was denied the opportunity to bid on a more favorable schedule, the Petitioner admitted during the investigation that she was given the opportunity to bid; therefore, there was no adverse employment action. Finally, the Employer explained that the Petitioner was not given a salary increase because she was already at the top of the pay rate scale for her position. There is no evidence that any of the above actions were taken due to the Petitioner's age.

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 Frontier Airlines 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 30th day of November 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Nabi R. Fakroddin

Commissioner Hermene Hartman

Commissioner Eleni Bousis