

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: <b>2012CA1507</b>
	)	EEOC NO.: <b>21BA12750</b>
<b>ABELARDO CASTANEDA,</b>	)	ALS NO.: <b>12-0687</b>
	)	
	)	
Petitioner.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Hamilton Chang, Rose Mary Bombela-Tobias, and Robert A. Cantone presiding, upon the Request for Review (“Request”) of Abelardo Castaneda (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)<sup>1</sup> of Charge No. 2012CA1507 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 November 30, 2011, the Petitioner filed a charge of discrimination with the Respondent alleging that Kraft Foods Global, Inc. (“Employer”) discharged him because of his race, national origin, and age, in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”).

On August 21, 2012, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

Petitioner has not presented a *prima facie* case that Employer discriminated against him by discharging him because of his race, national origin, or age. He must show: 1) he is a member of a protected class; 2) he was performing his work satisfactorily; 3) he was subject to an adverse action; and 4) the Employer treated a similarly situated employee outside his protected class more favorably under similar circumstances. Marinelli v. Human Rights Comm’n, 262 Ill. App. 3d 247, 253-54 (2d Dist. 1994). Even assuming that Petitioner presented a *prima facie* case, the Employer has produced a legitimate, nondiscriminatory reason for discharging him: his history of discipline for poor performance and safety violations, combined with his recent admitted thefts of cans of pop from fellow employees. 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). The Commission does not sit as a “super-personnel department” to examine an employer’s business decisions, even if those decisions

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<sup>1</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.”

seem “high-handed” or “mistaken.” Mechnig v. Sears, Roebuck & Co., 864 F.2d 1359, 1365 (7th Cir.1988) (citations omitted).

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 Kraft Foods Global, 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 Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Rose Mary Bombela-Tobias