

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2011CN3895
)	EEOC NO.: N/A
THOMAS E. WILLIAMS,)	ALS NO.: 12-0761
)	
)	
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 Thomas E. Williams (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2011CN3895 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 dismissal of the Petitioner’s charge for **LACK OF JURISDICTION** and **LACK OF SUBSTANTIAL EVIDENCE** is **SUSTAINED**.

DISCUSSION

On April 27, 2011, the Petitioner filed a charge of discrimination with the Respondent alleging that Ludwig Thornwood Apartments (“Employer”) issued him written discipline on April 14, 2010, because of his race, sex, and nepotism (Counts A, B, and C); and discharged him on April 4, 2011, because of nepotism, race, sex, and in retaliation for opposing unlawful discrimination (Counts D, E, F, and G), in violation of Sections 2-102(A) and 6-101(A) of the Illinois Human Rights Act (“Act”).

On September 17, 2012, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

Petitioner’s counts related to the written discipline (A, B, and C) are untimely. Section 7A-102(A)(1) of the Act provides that in all cases (except housing discrimination cases), a petitioner must file a charge of discrimination with the Respondent within 180 days after the date of the alleged civil rights violation. This 180-day filing requirement is jurisdictional. Failure to file a charge within the prescribed time deprives the Respondent and the Commission of jurisdiction to proceed further. Trembczynski v. Human Rights Comm’n, 252 Ill. App. 3d 966, 625 N.E.2d, 215 (1st Dist. 1993). Petitioner alleges that the written discipline was issued on April 14, 2010, but he did not file his charge until April 27, 2011 --- well outside the jurisdictional window.

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 Commission also lacks jurisdiction over the counts related to nepotism (C and D). The statute protects discrimination on the basis of a number of attributes, including sex and race, but nepotism (or lack of family connection) is not a protected class. 775 ILCS 5/1-102(A).

Petitioner has failed to show that Employer discharged him because of his race or sex (Counts E and F). 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). If Petitioner presented a *prima facie* case, the Employer may produce a legitimate, nondiscriminatory reason for its actions, and Petitioner must prove it was pretextual. Zaderaka v. Illinois Human Rights Comm'n, 131 Ill. 2d 172, 179 (1989). Employer asserts that it discharged Petitioner because it had caught him stealing scrap metal, and had been written up twice before. Petitioner has not proven that this was 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).

A *prima facie* case of retaliation (Count G) 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). Petitioner presented no evidence that he engaged in a protected activity before being discharged, so he has not presented a *prima facie* case.

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 Ludwig Thornwood Apartments as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS)
)
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Entered this 16th day of November 2018.

Commissioner Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Steve Kim