

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2012CA1632
)	EEOC NO.: 21BA20529
EDWIN WALKER,)	ALS NO.: 13-0017
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Nabi R. Fakroddin, Hermene Hartman, and Eleni Bousis presiding, upon Edwin Walker’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2012CA1632 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 9, 2011, the Petitioner filed a charge of discrimination with the Respondent alleging that Greyhound Lines, Inc. (“Employer”) harassed him because of his age and race and discharged him because of his age, race, and in retaliation for opposing unlawful discrimination in violation of Sections 2-102(A) and 6-101(A) of the Illinois Human Rights Act (“Act”). On December 27, 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 he was harassed on the basis of his age and race and that the harassment was so severe or pervasive that it altered the conditions of his 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 cannot establish that he was subjected to a hostile work environment. During the investigation, the Petitioner stated that he was accused of fraud, embezzlement, and theft by his managers. The Employer denied this during the investigation, but even if all of the Petitioner's allegations are true, nothing alleged rises to the level of actionable harassment. These accusations are not severe or pervasive enough to create an abusive work environment.

To establish a *prima facie* case of discrimination, the Petitioner must show: 1) he is a member of a protected class; 2) he was performing his job 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 (2d Dist. 1994). To prove a *prima facie* case of retaliation, the Petitioner must prove the following three elements: (1) Petitioner engaged in a protected activity, (2) the employer took an adverse action against him, and (3) there was a causal nexus between the protected activity and the adverse action. Carter Coal Co. v. Human Rights Commission, 261 Ill. App. 3d 1, 7 (5th Dist. 1994).

There is no substantial evidence that Petitioner was discharged due to his age, race, or in retaliation for filing a charge with the EEOC. The Employer stated during the investigation that the Petitioner was discharged for falsifying time records. The Employer had conducted a full investigation, including video footage, and concluded that the Petitioner had been dishonest regarding the times he was actually at work. The investigation did not reveal any other employees who had falsified time records who were not discharged. Therefore, the Petitioner cannot prove his *prima facie* case of employment discrimination. Also, there is no evidence that the Employer knew of the Petitioner's EEOC charge prior to his discharge, so the Petitioner cannot prove his retaliation claim.

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 Greyhound Lines, 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 30th day of November 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Nabi R. Fakroddin

Commissioner Hermene Hartman

Commissioner Eleni Bousis