

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2010CN4320
)	EEOC NO.: N/A
WARDA JUBEH,)	ALS NO.: 13-0044
)	
)	
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 Warda Jubeh (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2010CN4320 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 December 14, 2009, the Petitioner filed a charge of discrimination with the Respondent alleging that Levy Premium Foodservice Limited Partnership d/b/a Levy Restaurants at Wrigley Field (“Employer”) subjected her to unequal terms and conditions of employment, and suspended her, because of her race, color, national origin, sex, age, ancestry, 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 November 7, 2012, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

Petitioner’s claim that she was subjected to unequal terms and conditions (Counts A-G) is 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 she was given a verbal warning on April 22, 2009, but she did not file the instant charge until December 14, 2009. This is 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.”

To present a *prima facie* case that Employer discriminated against her by suspending her based on her race, color, national origin, sex, age, or ancestry (Counts H through M), Petitioner must show: 1) she is a member of a protected class; 2) she was performing her work 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, 253-54 (2d Dist. 1994). If the Petitioner presents a *prima facie* case, the Employer must then produce a legitimate, nondiscriminatory reason for its action, and Petitioner must prove that this reason is a pretext for discrimination. Zaderaka v. Illinois Human Rights Comm'n, 131 Ill. 2d 172, 179 (1989). Employer asserts that it suspended Petitioner because she was seen throwing a hot dog at a supervisor. Though Petitioner denies this occurred, the question is not whether the employer's decision was correct or desirable, but whether the employment decision was honestly based on the proffered reason. Kralman v. Illinois Dep't of Veterans' Affairs, 23 F.3d 150, 156 (7th Cir. 1994). 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).

Finally, Petitioner's count N also fails. A *prima facie* case of retaliation 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). A causal connection will be inferred if the period of time between the protected activity and the adverse action is sufficiently short. Petitioner filed an earlier EEOC charge (ruled on by the Commission in ALS No. 12-0225) on October 27, 2008. Employer suspended her on September 15, 2009. This was too long a time period to infer a causal nexus between the charge and the suspension. See Mitchell and Local Union, 146, 20 Ill. HRC Rep. 101, 110-11 (1985) (six months was too remote to establish connectedness).

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 Levy Premium Foodservice Limited Partnership d/b/a Levy Restaurants at Wrigley Field 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 21st day of November 2018.

Commissioner Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Steve Kim