

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

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| IN THE MATTER OF THE REQUEST |) | |
| FOR REVIEW BY: |) | CHARGE NO.: 2011CF0587 |
| |) | EEOC NO.: 21BA02848 |
| TODD BYRD, |) | ALS NO.: 13-0062 |
| |) | |
| Petitioner. |) | |

ORDER

This matter coming before the Commission by a panel of three, Commissioners Nabi R. Fakroddin, Hermene Hartman, and Eleni Bousis presiding, upon Todd Byrd's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")¹ of Charge No. 2011CF0587 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 31, 2012, the Petitioner filed a charge of discrimination with the Respondent alleging that Illinois Community College District Number 525 ("Employer") issued him a negative performance evaluation, issued him a final written reprimand, and placed him on probation in retaliation for opposing unlawful discrimination in violation of Section 6-101(A) of the Illinois Human Rights Act ("Act"). On November 16, 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).

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).

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."

There is no substantial evidence that the Employer subjected the Petitioner to adverse employment actions in retaliation for opposing unlawful discrimination. The Petitioner cannot demonstrate the necessary causal nexus between the Employer's actions and his protected activity. The investigation revealed that the Petitioner opposed the Employer's hiring practices in 2008, and that in January 2010, he stated that the Employer was characterizing his anger in a discriminatory manner. He also complained of discrimination after a performance evaluation in February 2010, and complained generally about discrimination in August 2010. Rather than being related to these non-specific allegations of protected activity, the investigation demonstrated that the adverse actions were taken as a result of multiple instances of poor job performance, including unprofessional workplace behavior and failure to complete projects.

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 Illinois Community College District Number 525 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 7th day of December 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Nabi R. Fakroddin

Commissioner Hermene Hartman

Commissioner Eleni Bousis