

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2012CF1839
)	EEOC NO.: 21BA20673
DIMPLES HUGHES-WILLIAMS,)	ALS NO.: 13-0123
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Duke Alden, Rose Mary Bombela-Tobias, and Patricia Bakalis-Yadgir presiding, to correct a typographical error in the Commission's October 2, 2018 Order in this matter.

IT IS SO ORDERED:

- 1) The following language is stricken from the October 2, 2018 Order: "This Order is not yet final and appealable."
- 2) The stricken language is replaced with the following language: "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 John H. Stroger Hospital of Cook County as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order."
- 3) All other provisions in the October 2, 2018 Order remain in full force and effect.

STATE OF ILLINOIS)	
)	Entered this 3rd day of October 2018.
HUMAN RIGHTS COMMISSION)	

Commissioner Duke Alden

Chair Rose Mary Bombela-Tobias

Commissioner Patricia Bakalis-Yadgir

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2012CF1839
)	EEOC NO.: 21BA20673
DIMPLES HUGHES-WILLIAMS,)	ALS NO.: 13-0123
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Duke Alden, Rose Mary Bombela-Tobias, and Patricia Bakalis-Yadgir presiding, upon Dimples Hughes-Williams (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Respondent of Human Rights (“Respondent”)¹ of Charge No. 2012CF1839; 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, **WHEREFORE**, it is hereby **ORDERED** that:

*The Respondent’s dismissal of the Petitioner’s charge is **SUSTAINED** for **LACK OF SUBSTANTIAL EVIDENCE**.*

In support of which determination, the Commission states the following:

A. PROCEDURAL HISTORY

1. The Petitioner filed a charge of discrimination on January 3, 2012. The Petitioner alleged that John H. Stroger, Jr. Hospital of Cook County (“Employer”) harassed her because of her physical disabilities, seizure disorder, traumatic ischemia attacks, hypertension disorder, spinal stenosis disorder, and sleep apnea (Counts A through E), and in retaliation for filing previous discrimination charges (Count F); and issued her a written disciplinary warning because of her physical disabilities (Counts G through K) and in retaliation for filing prior charges of discrimination (Count L), in violation of Sections 2-102(A) and 6-101(A) of the Illinois Human Rights Act. 775 ILCS 5/2-102(A) and 6-101(A).
2. In his charge, the Petitioner alleged that from October 1, 2011, until October 17, 2011, Respondent harassed her because of her physical disabilities in that Respondent accused her of sleeping during a meeting. As to Count L, Petitioner alleges that on October 17, 2011, Respondent issued her a written disciplinary warning in retaliation for filing previous charges of discrimination in that the warning took place shortly after she filed Charge No. 2006Cf3 132

¹ In a Request for Review Proceeding, the Illinois Respondent of Human Rights is the “Respondent.”

In the Matter of the Request for Review by: Dimples Hughes-Williams

(on November 8, 2006), Charge No. 2007CF2640 (on April 10, 2007), and Charge No. 2010CF1972 (on January 7, 2010).

3. On June 13, 2012, pursuant to Petitioner's request, the Respondent administratively closed Counts F through K of Petitioner's charge. Therefore, Counts F through K of Petitioner's charge are not before the Commission on this Request.
4. On August 29, 2012, the Respondent made a finding of default against Respondent for its failure to file a verified response.
5. On October 3, 2012, Respondent filed a timely Request for Review with the Commission.
6. On November 26, 2012, the Commission vacated the Respondent's finding of default and remanded the charge to the Respondent for further investigation.
7. On April 2, 2013, the Respondent dismissed Counts A through E and L of the Petitioner's charge for Lack of Substantial Evidence.
8. On April 10, 2013, the Petitioner filed this timely Request as to Counts A through E and L.
9. On April 18, 2013, the Respondent filed its Response to the Request.

B. FACTUAL HISTORY, ALLEGATIONS, & ARGUMENTS

1. Employer is the flagship of the Cook County health and hospitals system, which includes a 464 bed hospital with dedicated units for obstetrics, pediatrics, intensive care, neonatal intensive care and burns.
2. In 1998, the Petitioner was hired by Employer as a ward clerk, and as of October 2011 was assigned to the trauma unit under nurse manager June Gerdes.
3. On October 17, 2011, Petitioner met with nurse manager June Gerdes regarding allegations concerning her allegedly sleeping at her work station, as well as not being able to be located by coworkers during her work shift.
4. The Petitioner had previously filed cases against Employer with the Respondent. Including charge number 2006CF3132 on November 8, 2006, alleging unequal training and discipline based upon her race; as well as charge number 2007CF2640 on April 10, 2007; and charge number 2010CF1972 on January 7, 2010.
5. The Petitioner stated that she had been out of work related to her health between January and September of 2011, and worked under nurse manager June Gerdes during the day shift hours

In the Matter of the Request for Review by: Dimples Hughes-Williams

of 7:00 a.m. to 3:00 p.m. upon her return to work. This Petitioner stated that her performance in this position had met the Employer's expectations.

6. The Petitioner stated that she suffers from multiple medical conditions, of which Employer is aware, as she seeks treatment through Employer's health services division. Petitioner stated that she had been diagnosed with hypertension in 1990, traumatic ischemia attacks in 2005 or 2006, a seizure disorder in 2006, sleep apnea in 2007, and spinal stenosis in 2011. Petitioner stated that these conditions did not impact her ability to perform the essential functions of her position.
7. Petitioner stated that on October 17, 2011, she was called into a meeting with June Gerdes regarding allegations that she was witnessed sleeping on the job. Petitioner stated that she denied that she was ever asleep while on duty, and believed that fellow clerks Paula Stallworth and Shanita McDaniels were responsible for providing this information to Employer's management. Petitioner stated that after this meeting, she did confront McDaniels about the allegations made against her, at which time she admitted reporting to the Employer that she had witnessed her sleeping on the job. The Petitioner stated that she felt this conduct by Stallworth and McDaniels constituted discriminatory workplace harassment.
8. Petitioner's employee health services documentation indicates that Petitioner had been off of work since February 2010, returning to work on September 22, 2011, due to multiple medical issues. The documentation cites specific conditions in December of 2011 including a seizure disorder and spinal stenosis, with hypertension, sleep apnea and TIA (traumatic ischemia attacks) being additionally referenced on a January 4, 2012, health evaluation. The documentation further indicates that Petitioner was found sleeping at her desk twice in February of 2010, at which time she informed Employer of her condition of obstructive sleep apnea.
9. June Gerdes, Nurse Manager, stated that around October 17, 2011, she had received a report from division director Mary O'Flaherty during a meeting where Petitioner was alleged have been nodding off at her work station on more than one occasion. Gerdes stated that the conduct as reported is unacceptable, and called Petitioner into a meeting with her on October 17, 2011, during which she was informed of the report sleeping on the job, although the person or persons who had brought this information to Employer was not discussed. Gerdes stated that Petitioner was also informed, upon similar report, that fellow staff had a difficult time locating her on the unit on multiple occasions as well. Gerdes stated that the purpose of this meeting was to inform Petitioner of concerns brought to Employer and was not considered to be a step in the formal disciplinary process. Gerdes stated that she was not aware of Petitioner's alleged disabilities, as the information gathered by Employer's health services department is not shared with an employee's supervisor.

10. Paula Stallworth, Ward Clerk, stated that she had been employed at Employer for nine years, and began working with Petitioner around October of 2011. Stallworth stated that she did not make any report to management regarding Petitioner allegedly sleeping on the job, but did inform Gerdes on one occasion that she was unable to locate Petitioner when she was supposed to provide relief at the registration desk. Stallworth stated that Petitioner did not confront her following the meeting on October 17, 2011, regarding her having made any reports of her conduct to management.
11. In her Request, the Petitioner argues that the Respondent did not thoroughly investigate her claim and was not impartial. The Petitioner makes no substantive arguments and attaches no supporting documentation.
12. In its Response, the Respondent asks the Commission to sustain its dismissal of Counts A through F and L of the Petitioner's charge for Lack of Substantial Evidence. The Respondent argues that its investigation does not reveal that Employer harassed Petitioner because of her physical disabilities or issued her a written disciplinary warning in retaliation for filing previous charges with the Respondent. The Respondent further argues that its investigation does not reveal, and Petitioner fails to provide, any evidence that Employer had any discriminatory animus based on her physical disabilities or retaliation for the Petitioner filing a previous charge that would lead to encouraging co-workers to report Petitioner's alleged misconduct.

C. DISCUSSION & DETERMINATION

The Commission sustains the dismissal of the 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. See 775ILCS 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. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747, 1995 WL 793258, *2 (March 7, 1995).

As to Counts A through E, the Commission finds that the evidence was insufficient to establish a case of harassment. In order to create a hostile work environment, Respondent's conduct must be sufficiently severe and pervasive to alter the conditions of Complainant's employment. Motley v. Illinois Human Rights Commission, 263 Ill. App. 3d 367(4th Dist. 1994). Thus, infrequent or isolated comments of a harassing nature will not constitute a violation of the Human Rights Act. Lever and Wal-Mart Stores, Inc., 2001 WL 474022, Charge No. 1998SF0551 (Jan. 2, 2001).

In the present case, the Petitioner alleged that the Employer harassed her by accusing her of sleeping during a meeting. The Petitioner's allegations of harassment are limited to her belief that certain co-workers made complaints to the Employer that she was allegedly sleeping on the job. The Petitioner makes no additional allegations of harassment and does not dispute that she did not report

In the Matter of the Request for Review by: Dimples Hughes-Williams

any instances of harassment to the Employer. As such, the Petitioner's allegations of harassment do not rise of the level of actionable harassment under the Act.

As to Count L, the Commission finds that the evidence was insufficient to establish that the Petitioner was issued a written disciplinary warning in retaliation for filing a previous charge of discrimination. To establish a *prima facie* case of retaliation there must be evidence that: **(1)** the Petitioner engaged in a protected activity; **(2)** the Employer committed an adverse action against her, and **(3)** a causal connection exists between the protected activity and the adverse action. See Welch v. Hoeh, 314 Ill. App. 3d 1027, 1035 (3rd Dist. 2000). To constitute an "adverse action" the alleged retaliatory conduct must be sufficiently severe or pervasive to constitute a term or condition of employment. See In the Matter of: Linda M. Hartman and City of Springfield Police Department, IHRC, Charge No. 1993SF0365, 1999 WL 33252975 (October 4, 1999). In this case, the Petitioner failed to establish the second element. The Respondent's investigation revealed that the Employer issued the Petitioner a letter, memorializing the content of a meeting held with the Petitioner in response to reports that she was sleeping on the job, as well as warning that if such unsatisfactory conduct was reported again, it would lead to the application of the formal administrative disciplinary process. This document does not qualify as formal discipline, nor does it constitute an adverse action.

Therefore, the Commission finds no substantial evidence of discrimination or retaliation, and the dismissal of the Petitioner's charge is **SUSTAINED**.

THEREFORE, IT IS HEREBY ORDERED THAT:

*The Respondent's dismissal of the Petitioner's charge is **SUSTAINED** for **LACK OF SUBSTANTIAL EVIDENCE**.*

This Order is not yet final and appealable.

STATE OF ILLINOIS)
)
HUMAN RIGHTS COMMISSION)

Entered this 2nd day of October 2018

Commissioner Bakalis-Yadgir

Commissioner Alden

Chair Bombela-Tobias

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

Page 6 of 6

In the Matter of the Request for Review by: Dimples Hughes-Williams