

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: <b>2012CN2371</b>
	)	EEOC NO.: <b>N/A</b>
<b>PHILLIP ROSE,</b>	)	ALS NO.: <b>13-0197</b>
	)	
	)	
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 Phillip Rose (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)<sup>1</sup> of Charge No. 2012CN2371 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 SUBSTANTIAL EVIDENCE** is **SUSTAINED**.

**DISCUSSION**

On February 23, 2012, the Petitioner filed a charge of discrimination with the Respondent alleging that CRST Expedited (“CRST”) failed to hire him because of his arrest record, in violation of Section 2-103(A) of the Illinois Human Rights Act (“Act”). Petitioner, a truck driver, had applied to work at CRST and was set to begin orientation. But before he began employment, CRST contacted a previous employer and was told that Petitioner had an outstanding warrant in Georgia, for unpaid fines and a suspended driver’s license. CRST refused to hire Petitioner.

On February 4, 2013, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

Petitioner characterizes this claim as a failure to hire based on his arrest record (though it is unclear whether he has ever been arrested) and denies that he has an active warrant in Georgia. Employers may not use the “fact of an arrest” as a basis to discriminate, but employers may obtain or use “other information which indicates that a person actually engaged in the conduct for which he or she was arrested” as a basis for employment decisions. Murillo v. City of Chicago, 2016 IL App (1st) 143002, ¶ 22. For example, if an applicant tells an employer that he committed the conduct for which he was arrested, the employer need not ignore this fact in deciding whether to hire the applicant. Sroga v. Pers. Bd. of City of Chicago, 359 Ill. App. 3d 107, 114, 833 N.E.2d 1001, 1007–08 (2005). Applying this principle to Petitioner’s case shows that his claim cannot succeed. Petitioner

<sup>1</sup> 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.”

