

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: 2012CA3088
	)	EEOC NO.: 21BA21560
OPHELIA CAGE	)	ALS NO.: 13-0273
	)	
	)	
	)	
Petitioner.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Chair Rose Mary Bombela-Tobias and Commissioners Patricia Bakalis Yadgir and Duke Alden presiding, upon the Request for Review (“Request”) of Ophelia Cage (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”) of Charge No. 2012CA3088 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 April 24, 2012, the Petitioner filed a charge with the Respondent alleging that they City of Chicago Water Department (“Employer”), issued her a five-day suspension because of her race, Black (Count A), age, 60 (Count B), sex, female (Count C), and in retaliation for engaging in protected activity (Count D) in violation of Sections 1-103(A), 2-102(A), and 6-101(A) of the Illinois Human Rights Act.

On March 21, 2013, 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 claims 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). A finding of Lack of Substantial Evidence is proper here because the Petitioner has failed to show that the Employer’s legitimate, non-discriminatory reason for suspending her is a pretext for discrimination.

### Counts A, B, and C

Generally, to establish a *prima facie* case of discrimination, the Petitioner must show: 1) that she is a member of a protected class; 2) that she was performing her work satisfactorily; 3) that she was subjected to an adverse action; 4) and that the Employer treated a similarly situated employee outside the Petitioner's protected class more favorably under similar circumstances. Marinelli v. Human Rights Commission, 262 Ill.App.3d. 247, 634 N.E.2d 463 (2d Dist. 1994). Once the *prima facie* case has been established, the burden shifts to the respondent to articulate a legitimate, non-discriminatory reason for its actions. Then, to prevail, the complainant must prove that the respondent's proffered reason is a pretext for unlawful discrimination. McDonnell-Douglas Corp v. Green, 411 U.S. 792, 93 S.Ct. 1817 (1913).

In the instant case, the Employer's stated reason for suspending the Petitioner was that she engaged in egregious misconduct by falsifying information regarding her failure to conduct any meter readings during her shift. There is no evidence to show that this reason is a pretext for discrimination. The Employer could not identify any other Water Rate Takers who failed to complete any readings during a shift. Furthermore, the investigation showed that the Employer had disciplined another Water Rate Taker, outside of the Petitioner's protected classes, for failing to complete a satisfactory number of readings. There is no evidence to show that the Petitioner's race, age, or sex was a factor in the suspension. Accordingly, the dismissal of Counts A, B, and C was not a violation of the Act.

### Count D

Generally, to establish a *prima facie* case of retaliation, the Petitioner must show: 1) that she engaged in protected activity; 2) the Employer committed an adverse action against her; and 3) a causal connection existed between the protected activity and the adverse action. See Welch v. Hoeh, 314 Ill.App.3d 1027, 1035, 733 N.E.2d 410, 416 (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. See Mitchell and Local Union, 146, 20 Ill. HRC Rep. 101, 110-11 (1985) (six months was too remote to establish connectedness).

Here, Petitioner filed a charge of discrimination against the employer in 2005, seven years prior to her suspension. The period between Petitioner's protected activity and her suspension is too remote to establish a connection. Petitioner offers no other evidence to show that her suspension was because of retaliation and not because she falsified a record. Therefore, the dismissal of Count D was not a violation of 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 Illinois Appellate Court by filing a Petition for Review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and the City of Chicago Water Department as respondents, with the Clerk of the Illinois Appellate Court within 35 Days after the date of service of this order.

**STATE OF ILLINOIS** )  
 ) **Entered this 14th day of December 2018.**  
**HUMAN RIGHTS COMMISSION** )

Chair Rose Mary Bombela-Tobias

Commissioner Patricia Bakalis Yadgir

Commissioner Duke Alden