

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)
FOR REVIEW BY:)

ALFONSO WALDRON, JR.,)

Petitioner.)

CHARGE NO.: **2013SA0679**

EEOC NO.: **21BA22681**

ALS NO.: **13-0329**

ORDER

This matter coming before the Commission by a panel of three, Commissioners Robert A. Cantone, Hamilton Chang, and Nabi R. Fakroddin presiding, upon the Request for Review (“Request”) of Alfonso Waldron, Jr., (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2013SA0679 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 September 15, 2012, the Petitioner filed a perfected charge of discrimination with the Respondent alleging that Jet Aviation (“Employer”) suspended him because of his age, 51, and in retaliation for opposing discrimination, and discharged him because of his age and in retaliation for opposing discrimination, in violation of Sections 2-102(A) and 6-101(A) of the Illinois Human Rights Act (“Act”). On April 18, 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 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 establish a prima facie case of age discrimination, the Petitioner must show that 1) he is a member of a protected class; 2) he was performing satisfactorily; 3) adverse action was taken against him despite the adequacy of his work; and 4) a similarly situated employee who was not a member of

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.”

the protected group was not subjected to the same adverse action. Anderson v. Illinois Human Rights Comm'n, 314 Ill. App. 3d 35, 49 (1st Dist. 2000). In order to establish a prima facie case of retaliation, the petitioner must show that 1) he 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 employer's adverse action. Carter Coal Co. v. Human Rights Comm'n, 261 Ill. App. 3d 1, 7 (5th Dist. 1994). If the Petitioner establishes his prima facie case, the employer may rebut the presumption of discrimination by articulating a legitimate, nondiscriminatory reason for its decision, and then the Petitioner must prove that the articulated reason was a pretext for discrimination. Zaderaka v. Illinois Human Rights Comm'n, 131 Ill. 2d 172, 178-79 (1989).

In this case, the Petitioner argues that the Employer suspended him for two days on March 23, 2012, on the basis of his age and in retaliation for his prior opposition of discrimination. Regarding his age-based claim, the Petitioner failed to present evidence that employees outside his age group were treated more favorably than him in similar circumstances. Regarding his retaliation claim, even if the proximity in time between the prior opposition to discrimination and the date of suspension created an inference of causation, the Petitioner's claim fails. The Employer stated that the Petitioner was suspended for refusing to do a task that his crew chief asked him to do. The Petitioner did not present evidence to support his allegation that the Employer's articulated reason was pretextual.

The Petitioner also argues that the Employer unlawfully discharged him on June 7, 2012, on the basis of his age and in retaliation for his prior opposition of discrimination. Again, the Petitioner did not prove that a similarly situated employee outside his age group was treated more favorably than him in similar circumstances. Again, with regard to the retaliation claim, the inference of causation is rebutted by the Employer's legitimate reason for discharging the Petitioner, which was that he walked off a task and he refused to yield to an approaching aircraft when told to by a supervisor. There was no evidence that the Employer's reason was a pretext for discrimination.

The Commission concludes that the Respondent's dismissal of the charge was 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 Illinois Appellate Court by filing a Petition for Review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Jet Aviation as respondents, with the Clerk of the Illinois Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS)
)
HUMAN RIGHTS COMMISSION)

Entered this 18th day of December 2018.

Commissioner Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Nabi R. Fakhroddin, P.E., S.E.