

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE No.: 2013CA 0477
Albert C. Snow,)	EEOC No.: 21 BA 22532
)	ALS No.: 13-0360
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Chair Rose Mary Bombela-Tobias, Commissioners Patricia Bakalis Yadgir, and Duke Alden, presiding upon the Matter of Petitioner Albert C. Snow’s Request for Review (Request) of the Notice of Dismissal issued by the Illinois Department of Human Rights (Respondent¹), of Charge 2013 CA 0477, 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 in 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 27, 2012, the Petitioner filed a charge of discrimination with the Respondent alleging that his employer, State of Illinois Secretary of State (Secretary), failed to provide him benefits based on his age and race and failed to renew his contract based on his age and race in violation of Section 2-102(A) of the Illinois Human Rights Act. 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. 1993CA 2747, 1995 WL 793258, (March 7, 1995).

The Petitioner was hired in 2006 by the Secretary’s office as a contractual investigator. Although the Secretary renewed his contract in 2007 and for five years

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the “Respondent.” The party to the underlying charge who is requesting review of the Department’s action shall be referred to as the “Petitioner.”

thereafter, the contract was not renewed for the 2013 fiscal year, which began on July 1, 2012.

To establish a *prima facie* case of discrimination, the Petitioner must show that (1) he falls within a protected class; (2) he was performing his work satisfactorily; (3) he was subjected to an adverse action; and (4) that the Employer treated a similarly situated employee outside Petitioner's protected class more favorably under similar circumstances. See Marinelli v. Human Rights Commission, 262 Ill. App. 3d, 634 N.E. 2nd 463 (2nd Dist. 1994).

If a *prima facie* case is established, a rebuttable presumption arises that the employer unlawfully discriminated against plaintiff. Second, to rebut the presumption, the employer must articulate, not prove a legitimate, nondiscriminatory reason for its decision. If that happens, the Petitioner must demonstrate that the employer's articulated reason is not the true reason but instead pretext for unlawful discrimination. Zaderaka v. Human Rights Comm., 131 Ill.2d 172, 179, 545 N.E.2d 684, 687 (1989)

The Petitioner contends that he was denied benefits, such as paid vacation, holiday, and sick time, based on his age (77 years) and race (black) between May 2012 through June 30, 2012. He acknowledged however, that his contract did not include these benefits and that he had not received benefits during previous years' contracts. Moreover, he did not identify a similarly situated contract employee outside his protected classes who did receive these benefits. Finally, the Secretary's office asserted that contractual employees do not receive benefits. The Petitioner has not established a *prima facie* case of discrimination based on the denial of benefits.

The Petitioner also contends that the Secretary's non-renewal of his contract was based on his age and race. He points to a 74-year old non-black co-worker as evidence of racial discrimination, stating that both were contractual employees and their performance was comparable. The Secretary asserted however, that the Petitioner's contract was not renewed due to a combination of poor work performance and fiscal constraints. Specifically, the Secretary cited the pace and quality of his work, which resulted in attorneys relying on him less and less over time. The Secretary also noted budget cuts for fiscal year 2013 which caused it to not renew some contracts and layoff permanent employees. As for the claim of age discrimination, the Secretary noted that it renewed contracts for three investigators who were in their 70s. The Secretary denied that it did not renew the Petitioner's contract based on his race and that younger non-black employees were also laid off during this period. The Petitioner provided no evidence that the Secretary's articulated reason for its action were pretext for unlawful discrimination.

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 the State of Illinois Secretary of State as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS

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Entered this 21st day of December 2018

HUMAN RIGHTS COMMISSION

Chair Rose Mary Bombela-Tobias

Commissioner Patricia Bakalis Yadgir

Commissioner Duke Alden