

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2012CF3461
)	EEOC NO.: 21BA21802
)	ALS NO.: 13-0418
JENNIFER M. MEYER,)	
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Robert A. Cantone, Hamilton Chang, and Nabi R. Fakroddin presiding, upon Jennifer M. Meyer’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2012CF3461, 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 May 30, 2012, the Petitioner filed a charge of discrimination with the Respondent, amended on May 21, 2013, alleging that American Chevrolet, Inc. d/b/a Advantage Chevrolet (“Employer”) discharged her because of her physical disabilities, Back Injury (Count A), and Left Wrist Injury (Count B), in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”). Pursuant to the Petitioner’s request, the Respondent thereafter administratively closed Count A; thus, only Count B is presently before the Commission. On July 3, 2013, the Respondent dismissed the Petitioner’s charge for lack of substantial evidence. The Petitioner filed a timely Request.

The Petitioner was employed as an assistant parts manager when she was fired by the Employer’s president, Desmond Roberts, on April 3, 2012. At the time of her termination, the Petitioner had recently suffered an on-the-job injury to her left wrist on February 16, 2012. The Petitioner returned to work on February 20, with a note from her doctor that she had no restrictions, but she thereafter sought additional medical treatment and wore a sling at work, which was plainly visible. The Petitioner did not request an accommodation to perform her work duties. The Petitioner felt she was fired because the Employer saw her as a “liability” due

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.”

to the condition of her wrist, but she did not introduce any evidence to substantiate this feeling other than the proximity in time of her discharge to her injury.

Mr. Roberts indicated that he terminated the Petitioner due to dishonesty and to ongoing concerns about the Petitioner's attempts to undermine her manager's authority. Mr. Roberts referenced an email from the Petitioner dated March 28, 2012, in which she expressed concern about the functioning of the department, the abilities of her manager, and the fact that she felt her decisions were second-guessed. Mr. Roberts indicated this email caused him concern about the Petitioner's ability to respect her manager and the department. Moreover, another employee reported to Mr. Roberts that the Petitioner had quoted Mr. Roberts as saying their parts department was the "worst run" in the company. Mr. Roberts indicated he never made such a statement, and he was troubled by the Petitioner's imputation of that remark to him. He thereafter terminated her for lying, insubordination, and failure to get along with her manager.

For the reasons that follow, the Commission concludes that the Respondent properly dismissed the Petitioner's claims for lack of substantial evidence. Substantial evidence is that which "a reasonable mind accepts as sufficient to support a particular conclusion and which consists of more than a mere scintilla but may be somewhat less than a preponderance." 775 ILCS 5/7A-102(D); Owens v. Dep't of Human Rights, 403 Ill. App. 3d 899, 917, 936 N.E.2d 623, 638 (1st Dist. 2010).

To establish a *prima facie* case of disability discrimination, the Petitioner must establish: (1) she was disabled within the definition of the Act; (2) her disability is unrelated to her ability to perform the functions of the job she was hired to perform; and (3) an adverse job action was taken against her related to her disability. Kreczko v. Triangle Package Machinery Co, 2016 IL App (1st) 151762, ¶¶ 36-37, 53 N.E.3d 1070, 1077-78 (1st Dist. 2016). If a *prima facie* case is established, the Employer must articulate a legitimate, nondiscriminatory reason for its employment decision to rebut the presumption of unlawful discrimination. Id. The Petitioner will bear the ultimate burden to show that reason was merely a pretext for unlawful discrimination. Id.

Here, Mr. Roberts stated a legitimate reason for terminating the Petitioner, and the investigation ultimately did not uncover substantial evidence that his rationale was a mere pretext. Pretext may be shown if the reason is "unworthy of belief" or "insufficient to motivate the decision." In the Matter of: Jerald Burkart, IHRC, 2018 WL 6071539 (Jan. 22, 2015). The reasons cited by Mr. Roberts were sufficient to motivate his decision. Mr. Roberts received a report from another employee that the Petitioner ascribed a negative remark to him that he did not make. Mr. Roberts also perceived the Petitioner's questioning of her manager and the way the department was run to be untenable with her continued employment there. An employer's reasoning need not be "accurate, wise, or well considered" to be sufficient. Id. Rather, he must

have a good faith belief supporting his decision, and if he does, the Commission will not second-guess that decision in the absence of other evidence supporting discriminatory intent. Carlin v. Edsal Manufacturing Company, IHRC, Charge No. 1992CN3428, 1996 WL 652580 (May 6, 1996).

Accordingly, the Petitioner has not presented enough 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 American Chevrolet, Inc. d/b/a Advantage Chevrolet as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS)
) **Entered this 21st day of December 2018**
HUMAN RIGHTS COMMISSION)

Commissioner Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Nabi R. Fakhroddin