

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)		
FOR REVIEW BY:)	CHARGE NO.:	2010CN4415
)	EEOC NO.:	N/A
SHARON L. FIELDS-THOMAS)	ALS NO.:	13-0430
)		
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 Sharon Fields-Thomas's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")¹ of Charge No. 2010CN4415 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:

A) The Respondent's dismissal of Counts A and B of the Petitioner's charge is SUSTAINED for LACK OF JURISDICTION.

B) The Respondent's dismissal of Count C of the Petitioner's charge is SUSTAINED for LACK OF SUBSTANTIAL EVIDENCE

DISCUSSION

On October 6, 2009, the Petitioner filed an unperfected charge of discrimination with the Respondent, perfected on March 16, 2012, alleging that Wal-Mart Store #1256 ("Employer") subjected her to unequal terms and conditions of employment based on her race and age and discharged her in retaliation for opposing unlawful discrimination in violation of Sections 2-102(A) and 6-101(A) of the Illinois Human Rights Act ("Act"). On June 26, 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 charges of discrimination for lack of jurisdiction and substantial evidence. If

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."

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).

Regarding the Petitioner's allegations that the Employer subjected her to unequal terms and conditions of employment based on her race and age, the Commission concludes that the Respondent properly dismissed Counts A and B for lack of jurisdiction. Section 7A-102(A)(1) of the Act states that a charge of discrimination must be filed within 180 days after the date an alleged civil rights violation has been committed. 775 ILCS 5/7A-102(A)(1). In the instant case, though the Petitioner does not specify an exact date, she alleges that the Employer subjected her to unequal terms and conditions of employment based on her race and age in denying her request to transfer to another department approximately around March of 2009. On October 6, 2009, the Petitioner filed the instant charge with the Equal Employment and Opportunity Commission ("EEOC"). The date of the alleged discrimination and the date the Petitioner filed the unperfected charge exceeds 180 days. Therefore, the Petitioner's claims as to Counts A and B are untimely.

Additionally, there was insufficient evidence to establish a *prima facie* case that the Petitioner was discharged due to retaliation for opposing unlawful discrimination. Generally, retaliation is established by showing that the (1) Petitioner engaged in a protected activity; (2) the employer committed an adverse act against the petitioner, and (3) a causal connection existed between the protected activity and the adverse act. Stone v. Department of Human Rights, 299 Ill.App.3d 306, 316, 700 N.E.2d 1105, 233 Ill. Dec. 397 (1998). Here, the Petitioner failed to establish the first and third elements of her *prima facie* case. While the Petitioner complained to her manager that the Employer was applying its policies differently, she failed to identify what protected category was being discriminated against or whether she was discriminated against based on a protected category. Also, the Petitioner is unable to specify the exact date she allegedly complained of discrimination and, therefore, the Petitioner is unable to establish that a causal connection existed between complaining to her manager and being discharged. Moreover, the Employer articulated a legitimate, nondiscriminatory reason for discharging the Petitioner: the evidence established that the Petitioner was discharged due to receiving multiple customer complaints. The Commission finds no evidence of pretext, and in the absence of pretext, the Commission cannot substitute its judgment for the Employer's business judgment. Berry and State of Illinois, Dep't of Mental Health and Developmental Disabilities, Charge No. 1994SA0240 (Dec. 10, 1997).

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 Department of Human Rights, the Illinois Human Rights Commission, and Wal-Mart Store #1256, as named party respondents, with the Clerk of the Illinois Appellate Court within 35 days after the date of service of this Final Order.

STATE OF ILLINOIS)
) **Entered this 20th day of December 2018**
HUMAN RIGHTS COMMISSION)

Commissioner Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Nabi R. Fakhroddin