

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2013SR2658
)	EEOC NO.: 440-2013-01644
SHAWN GRIES)	ALS NO.: 13-0448
)	
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 Shawn Gries's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")¹ of Charge No. 2013SR2658 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 February 6, 2013, the Petitioner filed a charge of discrimination with the Respondent, alleging that Methodist Medical Center ("Employer"), discriminated against him when it harassed him based on his race and discharged him due to his race and in retaliation for complaining about a co-worker in violation of Sections 2-102(A) and 6-101(A) of the Illinois Human Rights Act ("Act"). On September 11, 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

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."

conclusion. In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747, 1995 WL 793258, *2 (March 7, 1995).

The Commission found insufficient evidence to establish that the Petitioner was either harassed or discharged due to his race. Generally, to establish a *prima facie* case for discrimination the Petitioner must show that (1) he is a member of a protected class; (2) he was performing his work satisfactorily; (3) that he was subjected to an adverse action; and (4) a similar situated employee outside the Petitioner's protected class was not treated more favorably under similar circumstances. Marinelli v. Human Rights Commission, 262 Ill. App.3d 247, 634 N.E.2d 463 (2nd Dist. 1994).

In the instant case, the second and fourth elements were not satisfied as the Petitioner failed to demonstrate that he was performing his work satisfactorily or that the Employer treated a similarly situated non-white employee more favorably under similar circumstances. The evidence established that the Petitioner had received multiple complaints regarding his interactions with the Employer's staff and customers and was ultimately discharged due to violating the Employer's policies based on rude and inappropriate behavior. Additionally, the Petitioner failed to identify a similarly situated employee outside his protected category who was not discharged under similar circumstances.

Moreover, the Commission found insufficient evidence to establish that the Petitioner was harassed due to his race. Actionable harassment occurs when the workplace is permeated with 'discriminatory intimidation, ridicule and insult' that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment. Harris v. Forklift Systems, Inc. 510 U.S.210, 114 S.Ct. 367, 371, 126 L.Ed.2d 295 (1993). Here, the Petitioner does not allege any conduct by his supervisor that goes beyond the scope of a supervisory relationship. Additionally, he does not allege any harassing behavior by any other of the Employer's employees that is so severe or pervasive to alter the conditions of his employment.

Furthermore, there was insufficient evidence to establish a *prima facie* case of retaliation. 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 that he engaged in a protected activity as the Petitioner's complaint to his supervisors regarding a co-worker did not involve any allegations of unlawful discrimination by the Employer or the Employer's employees. Additionally, approximately nine months had elapsed between the Petitioner's complaint regarding his co-worker and his ultimate discharge.

The time period between the Petitioner's alleged protected activity and the adverse act is not sufficiently short to raise an inference of retaliatory motivation.

Accordingly, the Petitioner has not presented any substantial 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 Illinois Appellate Court by filing a Petition for Review, naming the Illinois Department of Human Rights, the Illinois Human Rights Commission, and Methodist Medical Center, 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. Fakroddin