

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2012SF3847
)	EEOC NO.: 21BA22068
MARIE MOSBY)	ALS NO.: 13-0472
)	
)	
)	
)	
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 the Request for Review (“Request”) of Marie Mosby (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”) of Charge No. 2012SF3847 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 is **SUSTAINED**.

DISCUSSION

On June 28, 2012, the Petitioner filed a charge of discrimination with the Respondent alleging that St. John’s Hospital (the “Employer”) subjected her to unequal pay because of her race, Black (Count A) and her age, 64 (Count B) in violation of Section 2-102(A) of the Illinois Human Rights Act.

On July 31, 2013, the Respondent dismissed Counts A and B of the 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).

Generally, to establish a *prima facie* case of discrimination, the Petitioner must show: 1) that she is a member of a protected class; 2) that she was performing her work satisfactorily; 3) that she was subject to an adverse action; 4) and that the Employer

treated a similarly situated employee outside the Petitioner's protected class more favorably under similar circumstances. Marinelli v. Human Rights Commission, 262 Ill.App.3d. 247, 634 N.E.2d 463 (2d Dist. 1994).

The Petitioner fails to prove the second and fourth requirements. The Respondent's investigation revealed that Employer employed seven floor finishers, including Petitioner. The Petitioner has the longest tenure of the floor finishers and is the highest paid floor finisher at \$10.70 per hour. The Petitioner has not suffered any adverse action and there are no similarly situated employees who are paid more than the Petitioner. Therefore, the dismissal of the charge was not a violation of 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 St. John's Hospital 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 14th day of December 2008.**
HUMAN RIGHTS COMMISSION)

Commissioner Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Nabi R. Fakroddin