

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST )  
FOR REVIEW BY: )

**BLANCA ROLDAN,** )

Petitioner. )

CHARGE NO.: **2012CA2339**  
EEOC NO.: **21BA21052**  
ALS NO.: **13-0481**

**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 Blanca Roldan (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)<sup>1</sup> of Charge No. 2012CA2339 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 22, 2012, the Petitioner filed a charge of discrimination with the Respondent alleging that Coca Cola Refreshments USA, Inc., (“Employer”) first suspended and then discharged her due to her age, 58, in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”). On August 8, 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 conclusion. In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747, 1995 WL 793258, \*2 (March 7, 1995).

The Petitioner first maintains that she was unlawfully suspended for misconduct. In order to establish a prima facie case of employment 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; and 4) that the employer treated a similarly situated employee outside the

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<sup>1</sup> 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.”

Petitioner's protected class more favorably under similar circumstances. See *Marinelli v. Human Rights Comm'n*, 262 Ill. App. 3d 247, 253 (2<sup>nd</sup> Dist. 1994).

In this case, the Employer suspended the Petitioner pending an investigation after a coworker reported that she had been physically confronted and pushed by the Petitioner. The Petitioner's claim that her suspension was actually based on her age fails because she could not establish that an employee who was younger than her was not suspended after complaints of physical violence. The Employer stated that its policy was to suspend employees suspected of physical violence, and named two employees, who were outside the Petitioner's age group, who were suspended and discharged for physical violence.

The Petitioner next argues that she was unlawfully discharged for verbally threatening a coworker. The Employer's investigatory team determined that the Petitioner physically pushed her coworker, after threatening to strike her several days prior to the attack. The Employer subsequently discharged the Petitioner for this behavior, and not for verbally threats. The Petitioner could not establish that an employee who was younger than her was not discharged in similar circumstances. In fact, the Employer discharged two employees outside the Petitioner's age group for physical violence.

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 Illinois Appellate Court by filing a Petition for Review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Coca Cola Refreshments, USA, Inc., as respondents, with the Clerk of the Illinois Appellate Court within 35 days after the date of service of this Order.

**STATE OF ILLINOIS** )  
 ) **Entered this 18th day of December 2018.**  
**HUMAN RIGHTS COMMISSION** )

Commissioner Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Nabi R. Fakhroddin, P.E., S.E.