

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

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

MIKE L. LARSON,)

Petitioner.)

CHARGE NO.: **2013SR1687**
EEOC NO.: **440-2012-05558**
ALS NO.: **13-0482**

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 Mike L. Larson (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2013SR1687 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 September 28, 2012, the Petitioner filed a perfected charge of discrimination with the Respondent alleging that Monical’s Pizza (“Employer”) discharged him due to his age, 55, in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”). On August 7, 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).

In order to establish a prima facie case of employment discrimination, the Petitioner must show 1) that he is a member of a protected class; 2) that he was performing his work satisfactorily; 3) that he was subject to an adverse action; and 4) that the employer treated a similarly situated employee outside the Petitioner’s protected class more favorably under similar circumstances. See Marinelli v. Human Rights Comm’n, 262 Ill. App. 3d 247, 253 (2nd Dist. 1994). In this case, the Petitioner could not establish that he was performing his work satisfactorily. The performance evaluations for his five years of

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.”

employment show that he was consistently underperforming. Moreover, the Petitioner could not identify a similarly situated employee who was younger than him who was not discharged after a history of poor performance.

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 Monical's Pizza 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. Fakroddin, P.E., S.E.