

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

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

THERESA WRIGHT,)

Petitioner.)

CHARGE NO.: **2013SF3494**
EEOC NO.: **21BA31911**
ALS NO.: **14-0408**

ORDER

This matter coming before the Commission by a panel of three, Chair Rose Mary Bombela-Tobias and Commissioners Patricia Bakalis Yadgir and Michael Bigger presiding, upon the Request for Review (“Request”) of Theresa Wright (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2013SF3494 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 June 17, 2013, the Petitioner filed a perfected charge of discrimination with the Respondent alleging that Roessler Construction & Contracting, Inc. (“Employer”) subjected her to sexual harassment, in violation of Section 2-102(D) of the Illinois Human Rights Act (“Act”).² On June 17, 2014, 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 the instant case, the evidence was insufficient to establish a prima facie case of sexual harassment based on hostile work environment. In order to prevail, the Petitioner must establish that (1) the conduct was sexual in nature; (2) the conduct was unwelcome, as measured on a subjective

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.”

² The Petitioner filed a separate charge against the Employer, alleging retaliation for opposing sexual harassment, resulting in constructive discharge. See Charge No. 2013SF3553.

standard; and (3) the conduct must create a hostile, intimidating or offensive working environment as measured on an objective standard. Ford and Caterpillar, Inc., IHRC, Charge No. 1993SF0242 (October 28, 1996). An employer is liable for the sexual harassment of its employees by nonemployees only if the employer becomes aware of the conduct and fails to take reasonable corrective measures. 775 ILCS 2-102(D). There is no liability against the employer if there was no act of sexual harassment after the reporting of the incident. Fritz and Department of Corrections, IHRC, Charge No. 1987SF0543 (October 17, 1995).

Here, the Petitioner presented substantial evidence that the conduct of a subcontractor employee was sexual in nature, unwelcome, and created an objectively hostile, intimidating, and offensive work environment. However, the Petitioner did not provide substantial evidence that the Employer failed to take reasonable, corrective measures, or that any other acts of sexual harassment occurred after she reported the subcontractor employee's conduct.

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 Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Roessler Construction & Contracting, Inc. as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS)
)
HUMAN RIGHTS COMMISSION)

Entered this 7th day of November 2018.

Chair Rose Mary Bombela-Tobias

Commissioner Patricia Bakalis Yadgir

Commissioner Michael Bigger