

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

<b>IN THE MATTER OF THE REQUEST</b>	)	
<b>FOR REVIEW BY:</b>	)	CHARGE No.: 2014 SA 0085
Joanne Hohlman,	)	EEOC No.: 21BA 32117
	)	ALS No.: 14-0428
	)	
<b>Petitioner.</b>	)	

ORDER

This matter coming before the Commission by a panel of three, Robert Cantone, Hamilton Chang, and Steve Kim, presiding upon the Matter of Petitioner Joanne Hohlman's Request for Review (Request) of the Notice of Dismissal issued by the Illinois Department of Human Rights (Respondent<sup>1</sup>), of Charge 2014 SA 0085, 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 in 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 July 11, 2013, the Petitioner filed a charge of discrimination with the Department alleging that her employer, the Illinois Department of Revenue, discharged her because of her age in violation of Section 2-102(A) of the Illinois Human Rights Act. The Department 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. 1993CA 2747, 1995 WL 793258, (March 7, 1995).

On November 16, 2012, the Petitioner was hired into a training program with the Illinois Department of Revenue to process state tax returns. She was discharged on April 23, 2013.

---

<sup>1</sup> In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge who is requesting review of the Department's action shall be referred to as the "Petitioner."

To establish a *prima facie* case of discrimination based on age, the Petitioner must show that (1) she falls within a protected class; (2) she was performing her work satisfactorily; (3) she was subjected to an adverse action; and (4) that the Employer treated a similarly situated employee outside Petitioner's protected class more favorably under similar circumstances. See Marinelli v. Human Rights Commission, 262 Ill. App. 3d, 634 N.E. 2<sup>nd</sup> 463 (2<sup>nd</sup> Dist. 1994).

Although the Petitioner falls within a protected class and was subjected to an adverse action, she failed to demonstrate that she was performing her work satisfactorily or that the Employer treated a similarly situated younger employee more favorably under similar circumstances. Trainee performance was measured on proficiency and production. The Petitioner's performance fell short in both areas, particularly proficiency. During her employment, she never met the Employer's proficiency expectations. In the weeks just prior to her discharge, the Petitioner's proficiency rating was 61.2%. Although one younger trainee performed similarly in production, he exceeded expectations in proficiency, with a 97% proficiency rating. The other younger trainee met both metrics. Thus, she has not established that she was performing her work satisfactorily or that there were others not in her protected class who were treated more favorably.

Accordingly, 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 the Illinois Department of Revenue 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 7<sup>th</sup> day of November, 2018

**HUMAN RIGHTS COMMISSION**

Commissioner Robert Cantone

Commissioner Hamilton Chang

Commissioner Steve Kim