

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)		
FOR REVIEW BY:)	CHARGE NO.:	2014SF0773
)	EEOC.:	21BA32653
ROBERT SIMONTON,)	ALS NO.:	14-0435
)		
Petitioner.)		

ORDER

This matter coming before the Commission by a panel of three commissioners, Chair Rose Mary Bombela-Tobias and Commissioners Patricia Bakalis Yadgir and Michael Bigger presiding upon Robert Simonton’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”) of Charge No. 2014SF0773 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 18, 2013, the Petitioner, Robert Simonton, filed a charge of sexual harassment with the Respondent, alleging that his employer, ThyssenKrupp Presta Danville, LLC ‘s Production Manager, Jeff Garrison, sexually harassed him in violation of Section 2-102 (D) of the Illinois Human Rights Act.¹ On June 24, 2014, the Respondent dismissed this charge for lack of substantial evidence. The Petitioner filed a timely Request for Review on September 29, 2014.

The Commission concludes that the Respondent properly dismissed the Petitioner’s charge for lack of substantial evidence. If no substantial evidence exists after the Respondent’s investigation of a charge, the charge must be dismissed. 775 ILCS 5/7A-102(D)(3). Section 7A-102(D)(2) states substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion and which consists of more than a mere scintilla but may be somewhat less than a preponderance.

The evidence was insufficient to establish a prima facie case of sexual harassment. Section 2-101(E) of the Act defines “sexual harassment” as any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when 1) submission to such conduct is made either explicitly or implicitly a term or condition of

¹ Petitioner alleged Respondent discharged him as retaliation for filing a sexual harassment complaint and the matter was investigated under charge 2014SF2638.

an individual's employment, 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual or 3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Further, actionable harassment occurs when the workplace is permeated with discriminatory ridicule and insult that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment. See Harris v. Forklift Systems, Inc., 510 U.S. 17, 20, 114 S.Ct. 367, 371, 126 L.Ed.2d 295 (1993).

The alleged harassment consisted of the Petitioner's supervisor telling him to "grab Crippin's cock and stroke it till it got hard and Crippin will be more compliant" on August 12, 2013. This conduct does not fit the definition of sexual harassment as defined in Section 2-101(E) of the Human Rights Act because the Petitioner did not allege that the supervisor made the submission or rejection of such act a term of employment, as a basis for employment decisions or cause an interference with the Petitioner's work performance. Further, it was one isolated incidence which was neither egregious nor sufficiently severe or pervasive or ongoing enough to rise to the level of

sexual harassment. Therefore, the Respondent lacked substantial evidence of sexual harassment and its dismissal of the charge was proper.

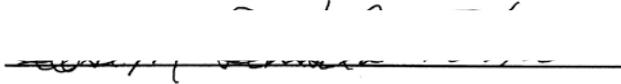
THEREFORE, IT IS HEREBY ORDERED THAT:

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 ThyssenKrupp Presta Danville, LLC as the respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS)
)
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Entered this 7th day of Nov. 2018.


Chair Rose Mary Bombela-Tobias


Commissioner Patricia Bakalis Yadgir


Commissioner Michael Bigger