STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST FOR REVIEW BY:	)	CHARGE NO.:	2013CF3347
	)	EEOC.:	21BA31810
SYLVIA CISNEROS,	)	ALS NO.:	14-0436
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 Sylvia Cisneros' ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent") of Charge No. 2013CF3347 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 May 28, 2013, the Petitioner, Sylvia Cisneros, filed 5 charges[1] of discrimination and wrongful discharge with the Respondent alleging her employer, Cook County School District 130 wrongfully discharged her on January 17, 2013 due to her National Origin (Mexican, Latin American), Disability (ADHD), Retaliation for Opposing Unlawful Discrimination, Denial of Accommodation of Disability and Retaliation for Requesting Accommodation of Disability in violation of Sections 2-102(A) and 6-101(A) of the Human Rights Act. On June 26, 2014, the Respondent dismissed these 5 charges 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 charges 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 that a preponderance.

[1] Petitioner filed fourteen charges, but nine charges were dismissed for lack of jurisdiction because the event occurred more than 180 days prior to the filing of the complaint. The Petitioner did not appeal these findings.

In order to establish a *prima facie* case for employment discrimination based on National Origin, Disability and request for a reasonable accommodation (Counts C, F and M), 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; (4) and that the Employer treated a similarly situated employee outside the Petitioner's protected class more favorably under similar circumstance. See Marinelli v. Human Rights Commission, 262 Ill.App.3d 247, 634 N.E.2d 463 (2nd Dist. 1994). Once the Petitioner establishes a prima facie case of discrimination, then the burden shifts to the Employer to rebut the presumption of discrimination and articulate a non-discriminatory reason for its employment action. McDonald Douglas Corp. v. Green, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed2d 668 (1973).

The Petitioner had been counseled and reprimanded regarding the proper discharge of her responsibilities on numerous incidences. The Petitioner was unable to refute documentation presented by her employer. Additionally, Petitioner failed to identify a comparative accused of similar work violations and performance who was not placed on an administrative leave resulting in discharge. Further, at the time of Petitioner's request for the accommodation to "take notes or record notes", the employer was already allowing her to do so to better perform her job. As a result, the Petitioner did not establish a *prima facie* case of discrimination and the Respondent's dismissal of her claims was proper.

The evidence was insufficient to establish a *prima facie* case of retaliation (Counts I and N). A *prima facie* case of retaliation is demonstrated when the Petitioner shows 1. Petitioner engaged in protected activity, 2. Respondent committed an adverse action against her and 3. A causal connection exists between the protected activity and the adverse action. Hofflet v. Department of Human Rights, 367 Ill.App.3d 628, 634, 867 N.E.2d 14, 310 Ill.Dec.701 (2006). Further, a causal connection will be inferred if the period of time between the protected activity and the adverse action is sufficiently short. See Mitchell and Local Union, 146 20 Ill. HRC Rep. 101, 110-111 (1985) (six months was too remote to establish connectedness).

Petitioner reported her allegation of harassment by Mooney in March 2012 but did not allege a protected basis (i.e., national origin, disability, etc.). Petitioner was placed on administrative leave on December 10, 2012 and discharged on January 17, 2013 or nine months after alleging harassment which is too remote to establish connectedness.

The Petitioner alleges she was discharged as retaliation for requesting a reasonable accommodation which as previously indicated the employer was already providing her. Additionally, Petitioner did not file a complaint, testify, assist in or participate in an investigation, proceeding or haring under this act which is required by Section 6-101(A) of the Illinois Human Rights Act. As a result, Petitioner failed to establish a *prima facie* case of retaliation and the Respondent's discharge of her claims 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 Cook County School District 130 as the respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS)
) **Entered this 7th day of Nov. 2018.**
HUMAN RIGHTS COMMISSION)

Chair Rose Mary Bombela-Tobias

Commissioner Patricia Bakalis Yadgir

Commissioner Michael Bigger