

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

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

ROBERT SIMONTON,)

Petitioner.)

CHARGE NO.: **2014SN0733**
EEOC NO.: **N/A**
ALS NO.: **14-0447**

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 Robert Simonton (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2014SN0733 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 filed a perfected charge of discrimination with the Respondent alleging that Jeff Garrison (“Garrison”) subjected him to sexual harassment in violation of Section 2-102(D) of the Illinois Human Rights Act (“Act”). On June 24, 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 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). “Unless the conduct is quite severe, isolated incidents of offensive sexual remarks

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.”

generally do not create an abusive environment. Unwelcome conduct of a sexual nature which does not amount to more than several isolated instances will not create liability.” In the Matter of Karen Tribble and Russell DeBerry, IHRC, 1996 WL 652645, *9 (September 9, 1996).

Here, the Petitioner alleged that Garrison, his supervisor’s supervisor, told him in a meeting that in order to get a coworker to cooperate, he should grab his “cock and stroke it till it got hard.” Although Garrison and other coworkers challenge the Petitioner’s account, even if the Petitioner’s assertion were believed, the conduct doesn’t constitute a sexual harassment violation. As noted above, isolated incidents of offensive sexual remarks do not create an abusive working environment.

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 Jeff Garrison 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 7th day of November 2018.**
HUMAN RIGHTS COMMISSION)

Chair Rose Mary Bombela-Tobias _____

Commissioner Patricia Bakalis Yadgir _____

Commissioner Michael Bigger _____