

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

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

**ROBERT SIMONTON,** )

Petitioner. )

CHARGE NO.: **2014SF2638**  
EEOC NO.: **21BA41373**  
ALS NO.: **14-0448**

**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”)<sup>1</sup> of Charge No. 2014SF2638 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 24, 2013, the Petitioner filed a perfected charge of discrimination with the Respondent alleging that ThyssenKrupp Presta Danville, LLC (“Employer”) discharged him in retaliation for his opposition to sexual harassment on August 16, 2013, in violation of Section 6-101(A) of the Illinois Human Rights Act (“Act”).<sup>2</sup> On July 10, 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 order to establish a prima facie case of retaliation, the Petitioner must show 1) that he engaged in a protected activity, 2) that the actor took an adverse action against him, and 3) that there was a

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<sup>1</sup> 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.”

<sup>2</sup> The Petitioner filed a separate charge against manager Jeff Garrison, alleging sexual harassment, based on the same August 12, 2013 incident related in this charge. See Charge No. 2014SN0733.

causal nexus between the protected activity and the employer's adverse action. Carter Coal Co. v. Human Rights Commission, 261 Ill.App.3d 5577 1, 7 (5<sup>th</sup> Dist. 1994).

In this case, the Petitioner asserted that he opposed sexual harassment, which comprised of a manager telling him to stroke a coworker's genitals in order to get him to cooperate. The Petitioner established that he was discharged a few days later. The Petitioner could not establish, however, that there was a causal nexus between the two events. The Petitioner stated that he did not object to the manager's remarks during the meeting and couldn't remember whether he hold his supervisor afterwards. If the Petitioner did not object to the harassment and the Employer did not know that he opposed the harassment, then the Employer could not have been motivated to discharge him based on the harassment. See In the Matter of Juan Mercado and Chicago Transit Authority, IHRC, 2012 WL 13042085, \*7 (March 20, 2012) (noting that the Petitioner must show some evidence his discharge was motivated by illegal discrimination). Here, the Petitioner failed to show a causal nexus between the alleged harassment and the discharge.

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 ThyssenKrupp Presta Danville, LLC as 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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**HUMAN RIGHTS COMMISSION** )

**Entered this 7th day of November 2018.**

Chair Rose Mary Bombela-Tobias

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Commissioner Patricia Bakalis Yadgir

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Commissioner Michael Bigger

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