

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

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

Elaine Arizmendi,)

Petitioner.)

CHARGE No.: 2014 CF 0134
EEOC.: 21 BA 32155
ALS No.: 14-0486

ORDER

This matter coming before the Commission by a panel of three, Robert Cantone, Hamilton Chang, and Steve Kim, presiding, over the Matter of Elaine Arizmendi's (Petitioner) Request for Review (Request) of the Notice of Dismissal issued by the Illinois Department of Human Rights (Respondent¹), of Charge 2014CF0134 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 18, 2013, the Petitioner filed a charge of discrimination alleging that her employer discharged her based on her national origin, her ancestry, her gender, and her disability in violation of Section 2-102(A) of the Illinois Human Rights Act. 775 ILCS 5/1 *et. Seq.*

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).

The Petitioner was hired by United Airlines as a ramp service employee in 1997. She was discharged on May 23, 2013 following an incident investigation in which she gave false statements.

To establish a *prima facie* case of discrimination, 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

¹ 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."

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. 2nd 463 (2nd Dist. 1994).

Although the Petitioner falls within protected categories and was subject to an adverse action, she failed to establish the necessary link between her protected categories and the adverse action. She did not identify another employee who was not discharged for giving false information during an investigation conducted by the Employer. In contrast, the Employer provided the names of two individuals outside the Petitioner's protected categories that it discharged for dishonesty.

Similarly, the Petitioner failed to establish that her discharge was based on her disability. The Employer articulated a legitimate non-discriminatory basis for her discharge and the Petitioner provided no evidence that this basis was a pretext for disability discrimination.

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 United Airlines 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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Entered this 7th day of November, 2018

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HUMAN RIGHTS COMMISSION

Commissioner Robert Cantone

Commissioner Hamilton Chang

Commissioner Steve Kim