

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: 2014CA0571
	)	EEOC NO.: 21BA32501
THOMAS TULLEY	)	ALS NO.: 14-0488
	)	
	)	
	)	
Petitioner.	)	

**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 Thomas Tulley (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”) of Charge No. 2014CA0571 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 9, 2013, the Petitioner filed a charge of discrimination based on race, age, sex, and disability (Counts A,B,C, and D respectively) and a charge of retaliation (Count E) against the City of Chicago Board of Education (the “Employer”) alleging that Petitioner’s status was changed from cadre substitute teacher to day-to-day substitute teacher in violation of Sections 1-102(A) and 6-101 of the Illinois Human Rights Act (the “Act”).

On July 15, 2014, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

The Commission concludes that the Respondent properly dismissed Counts A,B,C, and D of the Petitioner’s charge for lack of substantial evidence. Generally, to establish a *prima facie* case of discrimination, the Petitioner must show: 1) that he is a member of a protected class; 2) 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 circumstances. Marinelli v. Human Rights Commission, 262 Ill.App.3d. 247, 634 N.E.2d 463 (2d Dist. 1994). Once the *prima facie* case has been established, the burden shifts to the respondent to articulate a legitimate, non-discriminatory reason for its actions.

Then, to prevail, the complainant must prove that the respondent's proffered reason is a pretext for unlawful discrimination. McDonnell-Douglas Corp v. Green, 411 U.S. 792, 93 S.Ct. 1817 (1973).

The Department properly dismissed counts A through D because the Employer articulated a legitimate, non-discriminatory reason for Complainant's reassignment. The Employer changed Petitioner's status under the terms of the CBA between the Employer and Complainant's Union. Additionally, 90 other teachers were converted to day-to-day substitute status, at the same time as Petitioner, pursuant to the CBA—including teachers outside of Petitioner's protected classes. As a result, Petitioner is unable to show that he was singled out because of his race, age, sex, or disability.

Finally, the Commission finds that the Department properly dismissed Count E of Petitioner's charge. Generally, to establish a *prima facie* case of retaliation, the Petitioner must show: 1) he engaged in protected activity; 2) the Employer committed an adverse action against him; and 3) a causal connection existed between the protected activity and the adverse action. See Welch v. Hoeh, 314 Ill.App.3d 1027, 1035, 733 N.E.2d 410, 416 (3<sup>rd</sup> dist. 2000). In order to establish the causal nexus required to show retaliation, Petitioner must show: 1) direct evidence of retaliation; 2) evidence of unequal treatment of similarly situated persons who did not engage in the protected activity; or 3) establishing that the time period between the protected activity and the adverse action is short enough to create an inference of connectedness. See In the Matter of: Giuseppe Scalera and Village of Oak Park, IHRC, Charge No. 1997CF1270, 2002 WL 32828292, \*5 (September 23, 2002).

Petitioner's protected activity occurred over 18 months before he was placed on day-to-day substitute teacher status. The Commission finds that the time span between Petitioner's protected activity and the alleged adverse action is too remote to establish retaliatory motivation. See Reams and Santa Fe Railroad, 16 Ill. HRC Rep. (1985). For this reason, and the reasons discussed for Counts A through D, the Commission finds that the Employer did not retaliate against Petitioner.

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 the City of Chicago Board of Education as respondents, with the Clerk of the Appellate Court within 35 Days after the date of service of this order.

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Entered this 7th day of November 2018.

Chair Rose Mary Bombela-Tobias

Commissioner Patricia Bakalis Yagdir

Commissioner Michael Bigger