

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)		
FOR REVIEW BY:)	CHARGE NO.:	2014CF1779
)	EEOC NO.:	21BA40744
PHYLLIS S. MOORE)	ALS NO.:	14-0500
)		
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 Phyllis S. Moore’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2014CF1779 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 October 9, 2013, the Petitioner filed a charge of discrimination with the Respondent alleging that Coventry Health Care of Illinois (“Employer”) subjected her to unequal terms and conditions of employment due to her sex, issued her a written reprimand due to her sex, and discharged her due to her mental disability and sex in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”). On July 30, 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 in its entirety. Generally, to establish a *prima facie* case for discrimination the Petitioner must show that (1) she is a member of a protected class; (2) she was performing her work satisfactorily; (3) that she was subjected to an adverse action; and (4) a similar situated employee outside the Petitioner’s protected class was not treated more favorably under similar circumstances.

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.”

Marinelli v. Human Rights Commission, 262 Ill. App.3d 247, 634 N.E.2d 463 (2nd Dist. 1994). There is no substantial evidence that the Petitioner was subjected to unequal terms and conditions of employment. There was no evidence of an adverse action and the Petitioner failed to identify someone outside her protected class that was treated more favorably under similar circumstances.

Additionally, there was no substantial evidence that the written reprimand the Petitioner received was an adverse employment action in that the Petitioner did not suffer a loss in pay, seniority, or benefit. The Petitioner was also unable to establish that the Employer treated similarly situated employees outside the Petitioner's protected class more favorably under similar circumstances.

Furthermore, there was insufficient evidence to establish a *prima facie* case of disability discrimination. Generally, to establish a *prima facie* case for disability discrimination the Petitioner must show that (1) she had a disability within the meaning of the Act; (2) the employer had knowledge of the disability; (3) an adverse action was taken against the Petitioner; and (4) the Petitioner's disability is unrelated to her ability to perform the essential functions of the job. Acorn Corrugated Box Co. v. Illinois Human Rights Commission, 181 Ill. App. 3d 122, 536 N.E.2d 932 (1st Dist. 1989).

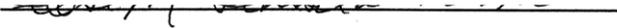
In the instant case, the fourth element is not satisfied as the evidence established that the Petitioner's mental disability was directly related to her ability to do her job. The Petitioner exhausted her available FMLA leave and paid time off and failed to provide medical documentation indicating when she would return to work.

Accordingly, the Petitioner has not presented any substantial 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 Coventry Health Care of Illinois 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
