

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)		
FOR REVIEW BY:)	CHARGE NO.:	2013CA0903
)	EEOC.:	21BA30101
LAWRENCE TRACZ,)	ALS NO.:	14-0506
)		
Petitioner.)		

ORDER

This matter coming before the Commission by a panel of three commissioners, Chair Rose Mary Bombela-Tobias and Commissioners Patricia Bakalis Yadgir and Michael Bigger presiding upon Lawrence Tracz's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent") of Charge No. 2013CA0903 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 10, 2012, the Petitioner, Lawrence Tracz, filed a charge of discrimination with the Respondent, alleging that his employer, Zurich American Insurance Company, discharged him in violation of Section 2-102 (A) of the Illinois Human Rights Act. On August 11, 2014, the Respondent dismissed this charge for lack of substantial evidence. The Petitioner filed a timely Request for Review on November 12, 2014.

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence exists after the Respondent's investigation of a charge, the charge must be dismissed. 775 ILCS 5/7A-102(D)(3). Section 7A-102(D)(2) states substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion and which consists of more than a mere scintilla but may be somewhat less than a preponderance.

The evidence was insufficient to establish a *prima facie* case of discrimination based on age. In order to prevail in a discrimination claim, the Petitioner must show 1) that he is a member of a protected class; 2) that he was performing his work satisfactorily; 3) that he was subjected to an adverse action; and 4) that the Employer treated a similarly situated employee outside Complainant's protected class more favorable under similar

circumstances. See, Marinelli v. Human Rights Commission, 262 Ill.App.3d 247, 634 N.E.2d 463 (2nd Dist. 1994).

The Petitioner alleged he was discharged on July 2, 2012 because he had 57 years of age. The employer indicated Petitioner was discharged due to a violation of the Employer's conduct policy which prohibits "releasing any company information to unauthorized parties inside or outside the company," breach of confidentiality and poor judgement. The employer indicated Petitioner violated said policy when he failed to immediately provide management with a document labeled "internal use only." Instead, Petitioner shared the document he allegedly found with another employee within the company. Petitioner was not aware of an employee under age 40 that the Employer accused of similar activity that was more favorably treated under similar circumstances.¹ The Petitioner failed to establish the employer treated a similarly situated employee outside Petitioner's protected class more favorably under similar circumstances.

¹ Employer indicated five other managers at Petitioner's work location were discharged for cause all of whom had more than 40 years of age.

Therefore, the Petitioner failed to prove a *prima facie* case and the Respondent's finding of lack of substantial evidence and dismissal of the charge was proper.

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 Zurich American Insurance Company as the respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

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)
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Entered this 7th day of Nov. 2018.

Chair Rose Marv Bombela-Tobias

Commissioner Patricia Bakalis Yadgir

Commissioner Michael Bigger