

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2014CF1682
)	EEOC NO.: 21BA40672
)	ALS NO.: 14-0534
TRACEY WILLIAMS,)	
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Hermene Hartman, Steve Kim, and Cheryl Mainor presiding, upon Tracey Williams’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2014CF1682, 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 January 13, 2014, the Petitioner filed a perfected charge of discrimination with the Respondent, alleging that Precision Dialogue Direct (“Employer”) discharged her and subjected her to unequal terms and conditions of employment due to her race, black, in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”). On September 22, 2014, the Respondent dismissed the Petitioner’s charge for lack of substantial evidence. The Petitioner filed a timely Request.

For the reasons that follow, the Commission concludes that the Respondent properly dismissed the Petitioner’s claims for lack of substantial evidence. Substantial evidence is that which “a reasonable mind accepts as sufficient to support a particular conclusion and which consists of more than a mere scintilla but may be somewhat less than a preponderance.” 775 ILCS 5/7A-102(D); Owens v. Dep’t of Human Rights, 403 Ill. App. 3d 899, 917, 936 N.E.2d 623, 638 (1st Dist. 2010). If no substantial evidence of

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.”

discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. Id.

To establish a *prima facie* case of discrimination, the Petitioner must ultimately show: (1) she is a member of a protected class; (2) she was performing her work satisfactorily; (3) she was subject to an adverse employment action; and 4) the Employer treated a similarly situated employee or employees outside her protected class more favorably under similar circumstances. Marinelli v. Human Rights Comm'n, 262 Ill. App. 3d 247, 634 N.E.2d 463 (2d Dist. 1994).

The record does not contain substantial evidence tending to establish the elements of the Petitioner's *prima facie* case. The evidence shows that the Petitioner was placed with the Employer on December 16, 2013 through a temporary staffing agency, and was told by her immediate supervisor, Gail Shay, that she was subject to a 30-day probationary period. Thereafter, the Petitioner was late to work by nearly half an hour or more on three occasions in early January. On January 10, 2014, the Petitioner missed a mandatory meeting. The Petitioner did not notify the Employer on those occasions that she was going to be late, pursuant to the Employer's written policy. Ms. Shay terminated the Petitioner on January 10 for excessive tardiness.

The Petitioner points to a non-black employee, Natalie Berroa, whose time records also show late arrivals by a few minutes in early January. In one instance, Ms. Berroa was over 45 minutes late. The Petitioner points out that Ms. Berroa was not terminated. However, the Employer states that Ms. Berroa notified her direct supervisor she would be late, in accordance with the Employer's policy and, moreover, Ms. Berroa did not miss the mandatory January 10 meeting. Thus, the Petitioner has not established Ms. Berroa as a direct comparator.

In her Request for Review, the Petitioner refers to two racially-charged statements made to her by another employee as a basis for her discrimination claim. However, this employee was not in a management or supervisory capacity, and, moreover, there is no evidence that Ms. Shay was aware of these statements or that they influenced her decision to terminate the Petitioner in any way.

The Petitioner further alleges that she was subjected to unequal treatment on the day of her discharge, when Ms. Shay did not provide the Petitioner her paycheck upon request. However, the Petitioner acknowledged that she was later paid through the temporary staffing agency that placed her with the Employer. Thus, the Petitioner was ultimately not subject to an adverse employment action in not receiving her paycheck.

Accordingly, the Petitioner has not presented enough 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 Precision Dialogue Direct 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 21st day of November 2018**
HUMAN RIGHTS COMMISSION)

Commissioner Hermene Hartman

Commissioner Steve Kim

Commissioner Cheryl Mainor