

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE No.: 2014 CF 0283
)	EEOC.: 21 BA 32271
Monica Davis,)	ALS No.: 14-0552
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Hermene Hartman, Steve Kim, and Cheryl Mainor, presiding, over the Matter of Monica Davis' (Petitioner) Request for Review (Request) of the Notice of Dismissal issued by the Illinois Department of Human Rights (Respondent¹), of Charge 2014CF0283, 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 August 7, 2013, the Petitioner filed a charge of discrimination alleging that her employer disciplined her and discharged her based on her race in violation of Section 2-102(A) of the Illinois Human Rights Act. 775 ILCS 5/1 *et. seq.* The Respondent dismissed the 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. 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 in the fall of 2012 by Society of St. Vincent DePaul, Archdiocese of Chicago, to work in one of the employer's thrift stores. She was issued a written reprimand on May 23, 2013, and suspended on June 17, 2013, both citing tardiness and excessive absenteeism. She was discharged on July 3, 2013 for excessive absenteeism and insubordination following a confrontation with a manager. The incident that led to her discharged occurred when the manager directed her to go to work rather

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."

than visit with a customer. Instead of following the direction, the Petitioner yelled at the manager.

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 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).

The Petitioner failed to establish a *prima facie* case of discrimination based on the written reprimand. To be actionable, there must be a significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibility, or a decision causing a significant change in benefits. See Hoffelt v. Illinois Dep't of Human Rights, 367 Ill. App. 3d 628, 867 N.E.2d 14 (2006), as modified on denial of reh'g (Oct. 20, 2006). Here, there is nothing to suggest that the Petitioner experienced a change at all, let alone a significant change.

The suspension and subsequent discharge are adverse actions, but in both instances the Petitioner failed to demonstrate that she was performing her work satisfactorily or that the Employer treated a similarly situated employee not in her protected class more favorably. The Employer had previously suspended an employee not in the Petitioner's protected class for tardiness. Additionally, the Petitioner failed to identify an employee outside her protected class who engaged in comparable confrontational behavior who was not discharged. See Young v. Illinois Human Rights Comm'n, 2012 IL App (1st Dist.) 112204, 974 N.E.2d 385, 389.

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 Society of St. Vincent DePaul, Archdiocese of Chicago 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 21st day of November 2018

HUMAN RIGHTS COMMISSION

Commissioner Hermene Hartman .

Commissioner Steve Kim .

Commissioner Cheryl Mainor .