

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE No.: 2013 CA 1874
)	EEOC.: 21 BA 30782
Moayed G. Shamo,)	ALS No.: 14-0556
)	
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 Moayed G. Shamo's (Petitioner) Request for Review (Request) of the Notice of Dismissal issued by the Illinois Department of Human Rights (Respondent¹), of Charge 2014CF1874 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 January 11, 2013, the Petitioner filed a charge of discrimination alleging that his employer discharged him in violation 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 worked for several years as a cook at a restaurant owned by Kanzaman, Inc. He contends that he was discharged based on his age on December 18, 2012. According to the Petitioner, both he and his wife were discharged by the manager following a confrontation involving preparing restaurant food for their personal consumption.

To establish a *prima facie* case of discrimination, the Petitioner must show that (1) he falls within a protected class; (2) he was performing his work satisfactorily; (3) he 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.

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."

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

The parties disagree as to whether the Petitioner was discharged or whether he left voluntarily after the confrontation with the manager. Even assuming that he was discharged, the Petitioner failed to establish the other elements necessary to establish a *prima facie* case of age-related discrimination. The Petitioner does not cite anything that would suggest age-related animus on the employer's part or suggest that a similarly situated employee not in the Petitioner's protected class was treated differently. In fact, the Petitioner's wife, who was 39 years old at the time, was discharged with the 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 Kanzaman, Inc., 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