

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE No.: 2014 CF 2281
)	EEOC.: 21 BA 41111
Marcus Mayweather,)	ALS No.: 14-0557
)	
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 Marcus Mayweather's (Petitioner) Request for Review (Request) of the Notice of Dismissal issued by the Illinois Department of Human Rights (Respondent¹), of Charge 2014CF 2281 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 April 15, 2014, the Petitioner filed a two-count charge against his former employer alleging discrimination based on race in violation of Sections 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 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 by Dura Automotive Systems as an assembly operator on September 23, 2013 after working through an employment agency for the Employer. He contends that he was subject to unequal terms and conditions of employment and ultimately discharged on November 7, 2013, because of his race.

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

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."

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).

To establish adverse employment action, an employee must establish that the employment action was more disruptive than a mere inconvenience or an alteration of job responsibilities. Hoffelt v. Illinois Dep't of Human Rights, 367 Ill. App. 3d 628, 633, 867 N.E.2d 14, 18 (2006), as modified on denial of reh'g (Oct. 20, 2006)

Here, the Petitioner claimed that he was assigned to more difficult and undesirable tasks than his non-black co-workers. Although there is no dispute that he is one of very few black employees, he did not provide information about a similarly situated employee not in his protected class who was treated more favorably. Moreover, that he worked on these more difficult tasks only about ten percent of the time undermines his assertion that he was treated in an adverse manner by the Employer. Finally, he did not show that the Employer's assertion that it assigned work based on operational needs was pretextual.

The Petitioner also failed to establish that he was discharged because of his race where he was absent twice during the probationary period and the Employer's policy explicitly provided for discharge for two absences. He did not provide information about a similarly situated employee who was treated differently, while the Employer provided information about non-black employees who were discharged for violating the same strict policy.

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 Counts A and B of the Petitioner's charge for 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 Dura Automotive Systems 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

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HUMAN RIGHTS COMMISSION

Commissioner Hermene Hartman

Commissioner Steve Kim

Commissioner Cheryl Mainor