

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)		
FOR REVIEW BY:	)	CHARGE NO.:	2013CR3685
	)	EEOC.:	440-2013-02395
DOMINICK OLADEINDE	)	ALS NO.:	14-0598
	)		
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 Duke Alden presiding upon Dominick Oladeinde’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”) of Charge No. 2013CR3685 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 charges for **LACK OF SUBSTANTIAL EVIDENCE** is **SUSTAINED**.

**DISCUSSION**

On March 11, 2013, the Petitioner, Dominick Oladeinde, filed two charges of discrimination with the Respondent alleging his employer, Coventry Health Care, subjected him to unequal terms and conditions and wrongfully discharged him on January 22, 2013 due to his Race (black) in violation of Sections 2-102(A) of the Human Rights Act. On May 6, 2014, the Respondent dismissed these charges for lack of substantial evidence. The Petitioner filed a timely Request for Review on May 13, 2014. On August 25, 2014, the Commission vacated the dismissal and ordered further investigation on all counts. On December 10, 2014 the Respondent again dismissed Petitioner’s charge for lack of substantial evidence. The Petitioner filed a timely Request for Review on December 30, 2014.

The Commission concludes that the Respondent properly dismissed the Petitioner’s charges 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.

In order to establish a *prima facie* case for employment discrimination based on unequal terms and conditions and race (black) (Counts A and B). 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 subject to an adverse action; (4) and that the Employer treated a similarly situated employee outside the Petitioner's protected class more favorably under similar circumstance. See Marinelli v. Human Rights Commission, 262 Ill.App.3d 247, 634 N.E.2d 463 (2<sup>nd</sup> Dist. 1994). Once the Petitioner establishes a *prima facie* case of discrimination, then the burden shifts to the Employer to rebut the presumption of discrimination and articulate a non-discriminatory reason for its employment action. McDonald Douglas Corp. v. Green, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed2d 668 (1973).

Petitioner alleges he was subjected to unequal terms and conditions of employment when he was not allowed to present his projects during weekly meetings; manage projects, gather or analyze data and his duties were reassigned to another employee. (Count A). In addition to the *prima facie* case for employment discrimination, Petitioner must satisfy adverse action by establishing alterations in duties or working conditions that caused a materially significant disadvantage. See In the Matter of Diane Allen, IHRC, Charge No. 1995CF0836 (October 20, 1999), 1999 WL 33252953 (Ill.Hum.Rts.Com).

While supervised by Nuzzo from September to December 2012, Petitioner alleged he was not able to present his projects during weekly meetings; manage projects, gather or analyze data and his duties were reassigned to another employee. From December 17, 2012 to January 22, 2013, Petitioner and two non-black employees had a new supervisor, Groenewold. On December 27, 2012, Groenewold immediately issued a Report of Employee Counseling Notice and then allegedly discharged the Petitioner due to his race. Employer indicated on June 30, 2013, the non-black employee resigned his position before being issued a performance review in 2012 or 2013. The second non-black employee received a "successful plus" ratings on his annual review.<sup>1</sup> Employer stated from November to December 2012, Petitioner failed to collect the updates from the team members and input those in the schedules based on his concerns for a violation of employer's code of ethics and professional conduct despite several meetings discussing these responsibility requirements and expectations. Groenewold issued a final written warning on December 31, 2012. The report required Petitioner to improve his performance within 60 days and warned Petitioner that failure to do so may result in termination. Groenewold stated Petitioner failed to meet the job requirements and was subsequently discharged on January 22, 2013.

Petitioner did not refute the employer's statement that he refused to perform the requested functions nor articulate which code of ethics and professional conduct the employer asked him to violate. Petitioner was previously advised of possible disciplinary action including termination. Petitioner failed to articulate the manner that the employer used to prevent him from performing his functions. Petitioner failed to prove he satisfactorily performed his position.

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<sup>1</sup> Employer provide a copy of Lewin's performance evaluation.

Evidence did not reveal another employee who refused to perform his job or a direct instruction. Respondent requested but did not obtain additional information of other non-black SIT managers who were disciplined and terminated in 2012 and 2013. The two non-black employees were not disciplined during 2012-2013. Petitioner did not provide a similarly situated non-black Senior IT Project Manager who was not disciplined for a similar offense. Petitioner did not establish a connection between his race and the employer's actions. Petitioner did not articulate the alterations in his duties or working conditions that caused a materially significant disadvantage. The Petitioner failed to establish a *prima facie* case of unequal terms and conditions of employment. The respondent's dismissal for lack of substantial evidence was proper under the Act.

Petitioner alleges he was discriminated against based on race (black). (Count B). Petitioner failed to articulate the manner that the employer used to prevent him from presenting and managing his projects and gathering or analyzing data. Petitioner did not articulate which code of ethics and professional conduct the employer asked him to violate. Petitioner did not refute the employer's statement that he refused to collect the updates from the team members and input those in the schedules. Petitioner did not prove he was satisfactorily performing his job responsibilities. Petitioner did not provide a similarly situated non-black senior IT project manager who was not disciplined for a similar offense. Petitioner did not establish a connection between his race and the employer's actions. The Petitioner failed to establish a *prima facie* case of race discrimination. The respondent's dismissal for lack of substantial evidence was proper under the Act.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

- 1.The dismissal of the Petitioner's charges is hereby SUSTAINED.
- 2.This is a final order. A final order may be appealed to the Illinois Appellate Court by filing a Petition for Review naming the Illinois Human Rights Commission, the Illinois Department of Human Rights and Coventry Health Care, as named party respondents, with the Clerk of the Illinois Appellate Court within 35 days after the date of service of this Final Order.

**STATE OF ILLINOIS** )  
 ) **Entered this 14 day of Dec. 2018.**  
**HUMAN RIGHTS COMMISSION** )

Chair Rose Mary Bombela-Tobias

Commissioner Patricia Bakalis Yadgir

Commissioner Duke Alden