

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE No.: 2014 CF 1346
Risi Orhorha)	EEOC No.: 21BA40424
)	ALS No.: 14-0615
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Chair Rose Mary Bombela-Tobias and Commissioners Patricia Bakalis Yadgir and Duke Alden, presiding upon the Matter of Risi Orhorha’s (Petitioner) Request for Review (Request) of the Notice of Dismissal issued by the Illinois Department of Human Rights (Respondent¹), of Charge 2014 CF 1346, 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 November 15, 2013, the Petitioner filed a twelve-count charge of discrimination with the Respondent alleging that her employer, Chase BankCard Services, Inc., harassed her, based on her race, black, national origin Nigeria, and physical disability (tendonitis in her hand) and in retaliation for opposing unlawful discrimination, in violation of Section 2-102(A) and 6-101(A) of the Illinois Human Rights Act 775 ILCS 5/1-101 *et.seq.* The Respondent dismissed the Petitioner’s 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).

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.”

The Petitioner worked for Chase BankCard services as a fraud investigator. She had taken that position in 2011, after having worked for the Employer for five years. She alleged that she was harassed, denied a transfer, and discharged, all based on her race, national origin, disability, and in retaliation for opposing discrimination. The discrimination she alleges, occurred between April 1, 2013, and her discharge date, May 30, 2013. The Petitioner received a written warning about her performance on February 14, 2013 based on the quality of her work. She was advised to slow down to increase her quality. In response, she replied that she felt humiliated, intimidated and discriminated against because her supervisor did not include her in certain meetings. She also asked to move to a different team with a different supervisor and on April 1, 2013, she started working under a new supervisor.

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

To establish a *prima facie* case of retaliation, the Petitioner must show: 1) that she engaged in a protected activity; 2) the Employer committed an adverse action against her, and 3) a causal connection between the two. See Welch v. Hoeh, 314 Ill. App 3d 1027, 1035 (3d Dist. 2000). Here, the protected activity was the Petitioner's response to her unfavorable evaluation in which she expressed feeling discriminated against.

When the complained of adverse action is harassment, the Petitioner must establish that the workplace is permeated with discriminatory ridicule and insult that is "sufficiently severe or pervasive" to alter the conditions of the victim's employment and create an abusive working environment. See Harris v. Forklift Systems, Inc., 510 U.S. 20, 114 S.Ct. 367, 370 (1993). The Petitioner here did not establish that the employer was motivated by discriminatory intent or that she was subjected to a pervasive pattern of behaviors. Instead, she asserts that her supervisor denied her the chance to listen in on telephone conversations he had with customers for quality control purposes, he criticized her work performance and he refused to return the call of one of her customers. These actions, including a written warning for a high error rate, relate to the Employer's supervising her in the performance of her work. Accordingly, because she did not establish that actionable harassment occurred, she did not establish a *prima facie* case of harassment based on her race, national origin, disability, or in retaliation for opposing discrimination.

The Petitioner also alleges that she was denied a transfer based on her race, national origin, physical disability, and in retaliation for opposing discrimination. In response to a request for her to shadow someone in another department, her supervisor asked her to let him know when that was scheduled, so that he could record it. He also advised her that it seemed unlikely that she would be able to transfer since she had been

in her position less than one year and had recent performance issues. It is not clear whether the Petitioner was actually denied a transfer since her discharge occurred prior to her appointment with the prospective department. Even if she were, however, she provided no evidence that she was discriminated against based on her race, national origin, disability, or in retaliation for opposing discrimination. The burden is on the person complaining of discrimination to put forth substantial evidence of discrimination. Here, the Petitioner provides no evidence whatsoever that she was denied a transfer based on any discriminatory animus.

The Petitioner also contends that her discharge violated the Act as it was based on her race, national origin, disability, and in retaliation for opposing discrimination. On May 13, the Petitioner was assigned to work on a case with an upset customer who asked to speak with a manager. The Petitioner refused to escalate the call to management, despite repeated requests by the customer to do so. According to the Employer, the customer filed a complaint with a federal oversight agency. Based on this incident and other previous performance issues, the Employer discharged the Petitioner. As with her other claims, the Petitioner here fails to provide substantial evidence that the Employer harassed her, refused to transfer, or discharged her based on her race, national origin, disability, or in retaliation for opposing unlawful discrimination. The Employer articulated clear, non-discriminatory reasons for its actions.

The Petitioner's Request for Review does not provide a basis for reversing the Respondent's determination.

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 Chase BankCard Services, Inc., as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

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Entered this 21st day of December 2018

Chair Rose Mary Bombela-Tobias

Commissioner Patricia Bakalis Yadgir

Commissioner Duke Alden