

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2014CF1517
)	EEOC NO.: 21BA40545
)	ALS NO.: 15-0013
RAYMOND MOORE,)	
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Robert A. Cantone, Hamilton Chang, and Nabi R. Fakroddin presiding, upon Raymond Moore’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2014CF1517, 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 charge for **LACK OF SUBSTANTIAL EVIDENCE** is **SUSTAINED**.

DISCUSSION

On December 17, 2013, the Petitioner, a former doorman, filed a charge of discrimination with the Respondent, alleging that RMK Management Corporation (“Employer”) denied him training (Count A), subjected him to unequal terms and conditions of employment (Count B), and discharged him (Count C), due to his race, black, in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”). On October 27, 2014, the Respondent dismissed the Petitioner’s charge for lack of substantial evidence. The Petitioner filed a timely Request.

For the reasons that follow, the Commission concludes that the Respondent properly dismissed the Petitioner’s claims for lack of substantial evidence. Substantial evidence is that which “a reasonable mind accepts as sufficient to support a particular conclusion and which consists of more than a mere scintilla but may be somewhat less than a preponderance.” 775 ILCS 5/7A-102(D); Owens v. Dep’t of Human Rights, 403 Ill. App. 3d 899, 917, 936 N.E.2d 623, 638 (1st Dist. 2010). If no substantial evidence of discrimination exists after the Respondent’s investigation of a charge, the charge must be dismissed. Id.

¹ In a request for review proceeding, the Illinois Department of Human Rights is the “Respondent.” The party to the underlying charge requesting review of the Illinois Department of Human Rights’s action shall be referred to as the “Petitioner.”

To establish a *prima facie* case of discrimination, the Petitioner must show: (1) he is a member of a protected class; (2) he was performing his work satisfactorily; (3) he was subject to an adverse employment action; and (4) the Employer treated a similarly situated employee or employees outside his protected class more favorably under similar circumstances. Marinelli v. Human Rights Comm'n, 262 Ill. App. 3d 247, 634 N.E.2d 463 (2d Dist. 1994). Once the Petitioner has established a *prima facie* case, the burden shifts to the Employer to articulate a non-discriminatory reason for its employment action. McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973) (adopted by Illinois Supreme Court in Zaderaka v. Human Rights Comm., 131 Ill.2d 172, 179, 545 N.E.2d 684, 687 (1989)). The Petitioner must then show that the Employer's articulated reason for its employment action was a pretext. Id.

The Petitioner was employed as a doorman in a residential building. In Counts A and B, the Petitioner alleges that he was subject to unequal terms and conditions of employment in two respects compared to a similarly situated white doorman. First, the Petitioner states that he did not receive training on proper eviction proceedings and package handling from the Employer, while the white doorman did. Second, the Petitioner alleges that during the criminal background check process, the Employer requested he provide his fingerprints, but did not request this of the white doorman.

The Employer acknowledged these facts; however, it articulated a non-discriminatory reason for each circumstance. Regarding the training, the Petitioner received approximately six fewer hours of training than his comparator because he had recent experience as a doorman in a nearby building, which his comparator did not. The Employer further stated that none of the doormen needed training on eviction proceedings. Regarding the fingerprint request, the Employer provided documentation that when it sent the Petitioner's information to the Illinois State Police to conduct a background check, a possible record was found, and the Illinois State Police requested the Petitioner's fingerprints to confirm the information and properly complete the background check. That issue did not arise for the other doorman.

The record contains no substantial evidence suggesting that either of these articulated reasons were a pretext for unlawful discrimination. Thus, the Respondent properly dismissed Counts A and B.

In Count C, the Petitioner alleges that he was discharged due to his race, demonstrated by the fact that his non-black comparator was kept on. But the Employer stated that it received reports from two other employees that the Petitioner displayed inappropriate and unprofessional behavior, both towards his co-workers and towards residents of the building. The Employer also received a report from the property manager's

daughter that the Petitioner treated her rudely. There is no substantial evidence tending to show that these non-discriminatory reasons for terminating the Petitioner were pretextual.

Accordingly, the Petitioner has not presented enough 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 RMK Management Corporation 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 December 2018**
HUMAN RIGHTS COMMISSION)

Commissioner Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Nabi R. Fakroddin