

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)		
FOR REVIEW BY:)	CHARGE NO.:	2014SF1175
)	EEOC NO.:	21BA40291
ANTHONY CAMPAGNA)	ALS NO.:	15-0039
)		
Petitioner.)		

ORDER

This matter coming before the Commission by a panel of three, Commissioners Hermene Hartman, Steve Kim, and Cheryl Mainor presiding, upon Anthony Campagna’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2014SF1175 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 charge for **LACK OF SUBSTANTIAL EVIDENCE** is **SUSTAINED**.

DISCUSSION

On October 30, 2013, the Petitioner filed a charge of discrimination with the Respondent alleging that KVF Quad Corporation, (“Employer”) failed to return him to work from a medical leave and failed to return him to work from a layoff due to a disability in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”). On November 19, 2014 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. 1993CA2747, 1995 WL 793258, *2 (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 requesting review of the Illinois Department of Human Rights’s action shall be referred to as the “Petitioner.”

The Petitioner failed to present sufficient evidence to establish a *prima facie* case of disability discrimination. Generally, to establish a *prima facie* case for disability discrimination the Petitioner must show that (1) he suffers from a disability within the meaning of the Act; (2) the employer had knowledge of the disability; (3) he suffered an adverse employment action; and (4) the disability is unrelated to the Petitioner's ability to do the job, with or without an accommodation. Habinka v. Illinois Human Rights Commission, 192 Ill. App.3d 343, 373, 548 N.E.2d 702, 139 Ill.Dec. 317 (1st Dist. 1989).

In the instant case, the Petitioner failed to present sufficient evidence to establish that he suffers from a disability within the meaning of the Act. The Petitioner submitted no medical documentation detailing the nature or extent of his shoulder injury and failed to respond to the Respondent's medical questionnaire.

Moreover, even if the Petitioner established he suffered from a disability within the meaning of the Act, the Petitioner's injury was related to his ability to perform the essential elements of his job. The Petitioner was hired as a Powder Coat Supervisor, a job requiring the Petitioner to be able to frequently lift and carry items weighing up to 100 pounds. Due to his shoulder injury, the Petitioner was permanently restricted to lifting no more than ten pounds. Thus, there is sufficient evidence to establish that the Petitioner's injury directly affected the Petitioner's ability to perform his job.

Additionally, the Petitioner's argument that the Employer stated the Petitioner could work in the office in a different role upon returning from his shoulder surgery is without merit as the Employer is under no duty to create a new position for the Petitioner. Gile v. United Airlines, Inc., 213 F.3d 365, 374 (7th Cir. 2000).

Accordingly, the Petitioner has not presented any substantial 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 KVF Quad 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 November 2018**
HUMAN RIGHTS COMMISSION)

Commissioner Hermene Hartman

Commissioner Steve Kim

Commissioner Cheryl Mainor