

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2013CF2606
)	EEOC NO.: 21BA31310
S.E. STILL)	ALS NO.: 15-0057
)	
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 S.E. Still's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Illinois Department of Human Rights ("Respondent")¹ of Charge No. 2013CF2606 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 January 24, 2013, the Petitioner filed a charge of discrimination with the Respondent alleging that Bunge Oils, ("Employer") subjected her to unequal terms and conditions based on her sex in violation of Section 2-102(A) of the Illinois Human Rights Act ("Act"). On November 18, 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."

Generally, to establish a *prima facie* case for discrimination the Petitioner must show that (1) she falls within a protected class; (2) she was performing her work satisfactorily; (3) that she was subjected to an adverse action; and (4) a similar situated employee outside the Petitioner's protected class was not treated more favorably under similar circumstances. Marinelli v. Human Rights Commission, 262 Ill. App.3d 247, 634 N.E.2d 463 (2nd Dist. 1994).

In the instant case, the Petitioner failed to establish that a similarly situated male employee was treated more favorably than she under similar circumstances. The Petitioner failed to identify a male employee who was allowed to transfer to a new position based on a verbal request and without submitting a formal bid on an open vacancy.

Moreover, the Employer articulated a legitimate, nondiscriminatory reason for not allowing the Petitioner to transfer positions in that the Petitioner did not submit a formal bid on a vacancy posting as required under the Employer's Collective Bargaining Agreement. The Petitioner failed to show that the Employer's denial of her verbal transfer request due to a lack of vacancy at the time was a pretext for sex discrimination. The Commission finds no evidence of pretext, and in the absence of pretext, the Commission cannot substitute its judgment for the Employer's business judgment. Berry and State of Illinois, Dep't of Mental Health and Developmental Disabilities, Charge No. 1994SA0240 (Dec. 10, 1997).

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 Illinois Appellate Court by filing a Petition for Review, naming the Illinois Department of Human Rights, the Illinois Human Rights Commission, and Bunge Oils, 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)
)
HUMAN RIGHTS COMMISSION)

Entered this 20th day of December 2018

Commissioner Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Nabi R. Fakhroddin