

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

<b>IN THE MATTER OF THE REQUEST</b>	)	
<b>FOR REVIEW BY:</b>	)	CHARGE No.: 2014 SA 2045
Priscilla Pride,	)	EEOC No.: 21BA 40939
	)	ALS No.: 15-0116
	)	
<b>Petitioner.</b>	)	

ORDER

This matter coming before the Commission by a panel of three, Chair Bombela-Tobias and Commissioners Duke Alden and Patricia Bakalis Yadgir presiding, upon the Matter of Petitioner Priscilla Pride’s Request for Review (Request) of the Notice of Dismissal issued by the Illinois Department of Human Rights (Respondent<sup>1</sup>), of Charge 2014 SA 2045, 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 July 11, 2013, the Petitioner filed a charge of discrimination with the Respondent alleging that her employer, Express Jet Airlines, harassed her, and then discharged her because of her age and retaliated against her in violation of Sections 2-102(A) and 6-101(A) of the Illinois Human Rights Act. 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).

On February 12, 2014, the Petitioner, who was a flight attendant, filed a perfected charge of discrimination against her Employer, Express Jet Airways. She contends that beginning in May 2013, her new supervisor began calling her to meetings to address

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<sup>1</sup> 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.”

customer complaints. She expressed a feeling of being harassed by the manager's methods and attributed this harassment to her age. She noted that he commented once that she did not look her age. She reported the claimed harassment internally on June 25, 2013, and although the Employer investigated, it did not substantiate her claim.

To establish a *prima facie* case of discrimination based on age, the Petitioner must show that (1) she falls within a protected class; (2) she was performing her 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. 2<sup>nd</sup> 463 (2<sup>nd</sup> Dist. 1994). If the employer then articulates a nondiscriminatory basis for the adverse action, "the employee has the burden of proving that the reason given by the employer is merely a pretext by showing that the discriminatory reason more likely motivated the employer or that the employer's proffered explanation is unworthy of credence." Kindred v. Human Rights Comm'n., 180 Ill. App. 3d 766, 768 (3d Dist. 1989)

When the complained of adverse action is harassment, the Petitioner must establish that the behavior complained of was so pervasive that they constituted different terms and conditions of employment. See Hoffelt v. Illinois Dep't of Human Rights, 367 Ill. App. 3d 628, 633, 867 N.E.2d 14, 18 (2006), as modified on denial of reh'g (Oct. 20, 2006). 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 alleges that her supervisor made one or two comments about her age during supervision regarding customer complaints. Accordingly, she did not establish a *prima facie* case of harassment.

Regarding her discharge, the Employer received complaints about the Petitioner prior to the start of the new supervisor, including three complaints between August 20, 2012 and December 29, 2012. Those complaints resulted in a written warning and a subsequent written warning reduced to a verbal warning. Three additional complaints were received between May 15, 2013 and June 4, 2013. The complaints generally alleged that the Petitioner was rude to customers and intimated that the customers would stop flying the Employer's airline. Following its review of these complaints, the Employer issued a final warning on June 25, 2013, the same day that the Petitioner made her harassment complaint. On August 7, 2013, a passenger complained that the Petitioner was rude to him, and two other passengers also stated that the Petitioner was rude to other passengers on the flight. The Employer discharged the Petitioner on September 11, 2013. The Petitioner attributes the discharge to her age and claims that it was done in retaliation for her engaging in a protected activity.

Although the Petitioner falls within a protected class and was subjected to an adverse action, she failed to demonstrate that she was performing her work satisfactorily or that the Employer treated a similarly situated younger employee more favorably under similar circumstances. Thus, she failed to establish the essential elements of a claim of age-based discrimination. Although the Petitioner provided letters from colleagues and customers that she was friendly and professional, they do not detract from the Employer's

right to make business decisions based on its reasonable belief of the facts surrounding her employment. The correctness is not important as long as there was a good faith belief by the Employer in its decision. See Carlin v. Edsal Manufacturing Company, Charge No. 1992CN3428, ALS No. 7321 (May 6, 1996), *citing* Homes and Board of County Commissioner, Morgan County, 26 Ill. HRC Rep. 63 (1986).

In order to establish a *prima facie* case of retaliation, the Petitioner must show that: (1) she engaged in a protected activity; (2) the Employer committed an adverse action against the Petitioner, and (3) a causal connection existed between the protected activity and the adverse action by the Employer. Welch v. Hoeh, 314 Ill.App.3d 1027, 1035, 733 N.E.2d 410, 416 (3<sup>rd</sup> Dist. 2000). A causal connection will be inferred if the time between the protected activity and the adverse action is sufficiently short. See Hoffelt v. Illinois Department of Human Rights, 367 Ill. App. 3d 628, 638, 867 N.E.2d 14, 18 (2006), as modified on denial of reh'g (Oct. 20, 2006)

When a complainant makes out a *prima facie* case of retaliation and the employer articulates a legitimate nondiscriminatory reason for its action, the burden then shifts to the Petitioner to show that the Employer's basis is not true, or is pretext. Burnham City Hosp. v. Human Rights Com. 126 Ill.App.3d 999, 467 N.E.2d 635 (4th Dist., 1984), Here, the Employer articulated a non-discriminatory basis for the Petitioner's discharge and the Petitioner failed to provide any evidence to suggest that it was pretextual. The Employer had received multiple complaints about the Petitioner over a several-month period. Verbal and written warnings, along with counseling, were not effective and ultimately, the Employer discharged her. The Petitioner did not establish that her discharge was in retaliation for her harassment complaint.

The Petitioner's Request did not offer any additional information that would require a different outcome.

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 the Express Jet Airlines 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**

)  
) Entered this 21st day of December 2018  
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Chair Rose Mary Bombela-Tobias

Commissioner Patricia Bakalis Yadgir

Commissioner Duke Alden