

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)
FOR REVIEW BY:)

LISA DAVIS,)

Petitioner.)

CHARGE NO.: **2014CF0671**
EEOC NO.: **21BA32576**
ALS NO.: **15-0120**

ORDER

This matter coming before the Commission by a panel of three, Commissioners Robert A. Cantone, Hamilton Chang, and Nabi R. Fakroddin presiding, upon the Request for Review (“Request”) of Lisa Davis (“Petitioner”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2014CF0671 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 September 18, 2013, the Petitioner filed a charge of discrimination with the Respondent alleging that Chicago Board of Education (“Employer”) harassed her because of her race, black, and sex, female, in violation of Section 2-102(A) of the Illinois Human Rights Act (“Act”). On January 6, 2014, the Respondent reissued its dismissal of 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).

In order to establish a prima facie case of harassment, the Petitioner must show that 1) she was subjected to harassment which was severe enough to constitute a term or condition of employment; and 2) the harassment would not have occurred but for her race or gender. In the Matter of Jerry Lever v. Wal-Mart Stores, Inc., IHRC. Charge No. 1998SF0551, 2001 WL 474082, *5 (January 2, 2001).

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.”

Actionable harassment occurs when the workplace is permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment. Harris v. Forklift Systems, Inc., 510 U.S. 17, 22 (1993). The Commission may take into consideration the following factors: (1) the frequency of the discriminatory conduct; (2) the severity of the conduct; (3) the physically threatening or humiliating nature of the conduct, as opposed to mere offensive utterances; and (4) the interference that the conduct has on the employee's work performance. In the Matter of Ella J. Wade, IHRC, Charge No. 2009CF1686, 2010 WL 7634127, *2 (October 13, 2010) (citing Harris, 510 U.S. at 22). There must also be evidence the alleged harassment was motivated by a discriminatory intent. Id.

In this case, the Petitioner argues that the Employer unlawfully harassed her by conducting an investigation into an allegation that she engaged in misconduct as a substitute teacher, and then summoning her to a hearing to discuss the misconduct and possible disciplinary action. She maintains that she did not engage in misconduct, and that the words she was accused of using were the sort of stereotypical words that someone who was racist and sexist would fabricate in order to get her into trouble. The Petitioner fails to establish her claims, because the Employer's act of investigating misconduct was one incident, rather than a number of racist or sexist actions that are severe or pervasive to alter the conditions of employment. See id. (noting that generally, a single negative performance review will not meet the standard for actionable harassment). An employer's investigation into misconduct, especially where there were numerous witnesses who came forward to accuse the Petitioner of wrongdoing, cannot be the kind of egregious unlawful harassment that the Act contemplates. Moreover, there is no evidence that the Employer's investigation was motivated by the intent to discriminate against the Petitioner because of her race or gender.

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 Illinois Appellate Court by filing a Petition for Review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Chicago Board of Education as respondents, with the Clerk of the Illinois Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS)
)
HUMAN RIGHTS COMMISSION)

Entered this 18th day of December 2018.

Commissioner Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Nabi R. Fakhroddin, P.E., S.E.