

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE No.: 2014 CR 3402
Daniel A. Warren,)	EEOC No.: 440-2014-02737
)	ALS No.: 15-0124
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Hermene Hartman, Steve Kim, and Cheryl Mainor, presiding upon the Matter of Petitioner Daniel A. Warren's Request for Review (Request) of the Notice of Dismissal issued by the Illinois Department of Human Rights (Respondent¹), of Charge 2014 CR 3402 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

The Petitioner drove a school bus for A.M. Bus Company. On April 1, 2014, he filed a charge of discrimination with the Department alleging that his employer subjected him to unequal terms and conditions of employment and suspended him in retaliation for filing a previous charge of discrimination, and because of his age in violation of Sections 2-102(A) and 6-101(A) of the Illinois Human Rights Act. The Department 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).

¹ 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."

The Employer's policy required its school bus drivers to spend at least five minutes² completing a pre-trip safety inspection prior to each trip. The Petitioner was fined \$6.50 for violating this policy. When he refused to sign an acknowledgment of the fine and violation of the policy, the Employer suspended him.

To establish a *prima facie* case of retaliation, the Petitioner must show: 1) he engaged in a protected activity; 2) the Employer committed an adverse action against him; and 3), a causal connection between the protected activity and the adverse action. See Welch v. Hoeh, 314, Ill. App. 3d 1027, 1035, 633 N.E. 2nd 410, 416 (3rd Dist. 2000). An inference of causal connection may arise where the period between the protected activity and the adverse action are sufficiently short. Here, the Petitioner had filed a charge of discrimination against his employer on March 27, 2013. The adverse action he alleges occurred eleven months after the protected activity. Therefore, there is no inference of retaliation.

The Petitioner also failed to establish a causal connection between the prior protected activity and the adverse act where he was unable to establish that others who did not engage in the protected activity were not adversely treated. The Petitioner acknowledged that he violated the workplace policy and that there were other employees, 46 in total, who were fined by the Employer. However, the Petitioner was the only employee to refuse to sign the notice of the fine and the only one to be suspended. He also failed to provide any direct evidence of retaliation.

Moreover, the Petitioner did not establish that the fine or the suspension were due to his age. A *prima facie* case of age discrimination requires the Petitioner to show that 1) he is age 40 or older; 2) he performed his job satisfactorily; 3) nevertheless, the employer took adverse action against him; and 4) a similarly situated younger employee was not subjected to the adverse action. While he was the only employee suspended, he was also the only employee who refused to sign the fine acknowledgment and he did not identify any younger employees who refused to sign the notice of the fine.

The Petitioner's Request for Review reflects the Petitioner's disagreement with the employer's policy. It does not provide a basis for reversing the Respondent's determination.

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 It is unclear from the record whether the required inspections must be at least 5 or 15 minutes. For purposes of this Order, the required length of the inspections is not relevant.

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 A.M. Bus Company, Inc., as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS

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HUMAN RIGHTS COMMISSION

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Entered this 21st day of November, 2018

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Commissioner Hermene Hartman

Commissioner Steve Kim

Commissioner Cheryl Mainor
