STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST:	)	
FOR REVIEW BY:	)	CHARGE NO.: 2008CF1774
	)	EEOC NO.: 21BA80789
JAMES STOKES,	)	HUD NO.: N/A
	)	ALS NO.: 09-0057
Complainant.	)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Sakhawat Hussain, M.D., Spencer Leak, Sr., and Rozanne Ronen presiding, upon Complainant's Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Department") of Charge No. 2008CF1774, James Stokes, Complainant, and City of Kankakee, Fire Department, Respondent; and the Commission having reviewed *de novo* the Department's investigation file, including the Investigation Report and the Complainant's Request and supporting materials, and the Department's response to the Complainant's Request; and the Commission being fully advised of the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Department's dismissal of the Complainant's charge is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

1. On January 15, 2008, the Complainant filed a two-count charge of discrimination with the Department, in which he alleged that the Respondent harassed him in retaliation for filing previous charges of discrimination, in violation of § 6-101(A) of the Illinois Human Rights Act ("Act"). On January 13, 2009, the Department dismissed the Complainant's charge for lack of substantial evidence. On February 17, 2009, the Complainant filed a timely request for review.

2. The Department's investigation revealed that the Complainant is employed as a firefighter with the Respondent. The Department's investigation also showed that the Complainant filed two previous charges of discrimination against the Respondent: (1) a December 2006 charge alleging age and race discrimination, and (2) a July 2007 charge alleging retaliation.

3. The Department's investigation showed that on January 1, 2008, the Complainant, while driving the Respondent's engine, sustained damage to the passenger side heat shield. There was a discrepancy as to whether the damage occurred when the engine ran over a snow covered parking divider or when the engine hit a curb at a gas station. The Complainant and a co-worker, Lt. Atchison, both completed written statements regarding the engine damage.

4. The Department's investigation also showed that on January 8, 2008, the Complainant received his accrued leave time statement, which he believed to be inaccurate. The Complainant went to speak to his supervisor, Chief Young, about the accumulation form and a verbal conformation resulted, during which the Complainant accused his supervisor of physically grabbing his arm in a threatening manner.

5. In his charge of discrimination, the Complainant alleges that he was harassed in retaliation for having filed charges of discrimination against the Respondent when (a) Atchison disagreed with him regarding where the engine damage occurred, and (b) when Young allegedly physically grabbed the Complainant. In his Request, the Complainant contends that his supervisor had no reason to physically confront the Complainant. The Complainant also alleges that his supervisor is upset because the Complainant has filed previous charges of discrimination against the Respondent with the Department.

6. The Commission's review of the investigation file leads it to conclude that the Department properly dismissed the Complainant's charge because the Complainant did not provide any evidence that the Respondent harassed him in retaliation for the charges of discrimination that he previously filed. If no substantial evidence of discrimination exists after the Department's investigation of a charge, the charge must be dismissed. *See* 775 ILCS 5/7A-102(D)(2008). The investigation files shows no substantial evidence that the Respondent was motivated by unlawful retaliation either (a) regarding the discrepancies in the explanations for the engine damage, or (b) regarding the altercation between Young and the Complainant.

7. There is no evidence that the discrepancy between the Complainant and Atchison regarding where the engine damage occurred was related to the Complainant's prior charges of discrimination against the Respondent. The Complainant presented no evidence that, in disagreeing with the Complainant, Atchison harbored an animus against the Complainant for previously filing charges of discrimination. Additionally, there is no evidence of a causal connection between Atchison's behavior and the prior charges of discrimination filed by the Complainant.

8. Further, there is no evidence that Young's altercation with the Complainant is related to the Complainant's having filed prior charges against the Respondent. While it is true that a heated argument developed between Young and the Complainant, the evidence shows that the altercation resulted over a disagreement about the Complainant's leave time. The Complainant presented no evidence that Young harbored an animus against the Complainant for having previously filed charges of discrimination against the Respondent. Additionally, the prior charges were filed

several months prior to the alleged act of retaliation and were too remote in time to create an inference of retaliation.

9. Accordingly, it is the Commission's decision that the Complainant has not presented any evidence to show that the Department's dismissal of his charge was not in accordance with the Act. The Complainant's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of the Complainant's charge is hereby **SUSTAINED.**

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 Respondent City of Kankakee, Fire Department, as appellees, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS	)	
	)	Entered this 22nd day of April 2009.
HUMAN RIGHTS COMMISSION	)	

Commissioner Sakhawat Hussain

Commissioner Spencer Leak, Sr.

Commissioner Rozanne Ronen