

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: 2008CF3253
	)	EEOC NO.: 21BA82022
TADEUSZ PALKA,	)	HUD NO.: N/A
	)	ALS NO.: 09-0243
Complainant.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Marti Baricevic, Robert S. Enriquez, and Gregory Simoncini presiding, upon Complainant's Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Department") of Charge No. 2008CF3253, Tadeusz Palka, Complainant, and the Cook County Sheriff's Office, Respondent; and the Commission having reviewed *de novo* the Department's investigation file, including the Investigation Report and the Complainant's Request, and the Department's response to the Complainant's Request; and the Commission being fully advised upon 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 May 1, 2008, the Complainant filed a charge of discrimination with the Department, in which he alleged employment discrimination on the basis of his national origin (Poland), in violation of § 2-102(A) of the Illinois Human Rights Act ("Act"), and retaliation in violation of § 6-101(A) of the Act. On April 10, 2009, the Department dismissed the Complainant's charge for lack of substantial evidence. On May 14, 2009, the Complainant filed a timely Request.

2. The undisputed evidence in the investigation file shows that the Respondent hired the Complainant for a part-time position in February of 1978. In August of 1980, the Complainant became a full-time Deputy Sheriff with the Respondent.
3. On May 11, 2007, the Respondent de-deputized the Complainant pending an investigation into allegations that the Complainant had engaged in misconduct. When the Respondent de-deputized the Complainant, it also rescinded the Complainant's badge and credentials.
4. On September 18, 2007, the Complainant filed a charge of discrimination against the Respondent.
5. The Respondent's investigation into the Complainant's alleged misconduct concluded in November of 2007. As a result of the investigation, the Respondent's Assistant Executive Director recommended that the Complainant should be "separated from employment."
6. A *Loudermill* probable cause hearing was held on February 20, 2008, before the Respondent's Merit System Protection Board (MSPB). The MSPB suspended the Complainant without pay pending his discharge from employment.
7. A Preliminary Disciplinary Hearing before the MSPB was scheduled for March 12, 2008. However, the Preliminary Disciplinary Hearing was rescheduled to April 10, 2008.
8. On March 17, 2008, the Complainant filed a second charge of discrimination with the Department.
9. On April 8, 2008, before the Preliminary Disciplinary Hearing could proceed, the Complainant voluntarily retired.
10. On April 8, 2008, the Complainant wrote a memorandum to the Respondent, in which he requested the return of his retirement badge and credentials. Approximately one month later, in May of 2008, the Complainant was informed by the Respondent's Assistant Director of Personnel that the Respondent would not be returning to the Complainant his retirement badge and credentials. On July 11, 2008, the Complainant wrote a letter to Sheriff Thomas Dart (non-Polish descent), requesting his retirement badge and credentials. The Complainant's retirement badge and credentials were not returned.

11. In this charge of discrimination, filed in May of 2008, the Complainant alleges the Respondent withheld his retirement badge and credentials because of his national origin (Poland), and in retaliation for his having previously opposed discrimination by the Respondent. The Complainant also believes that he is the only retiree from the Respondent required to make a written request for the return of his retirement badge and credentials.
12. The Respondent stated that the Complainant was denied his retirement badge and credentials because at the time of his retirement, he was on suspension pending discharge, and therefore he was not in "good standing" with the Respondent.
13. The Respondent lacks a written policy regarding the return of retirees' badges and credentials in these circumstances. However, in the course of its investigation, the Department found evidence that at least six other retirees had made written requests to the Respondent for the return of their retirement badges and credentials. Four of those requests were denied. Two of the four denials were based on the Respondent's determination that the retirees were not in good standing with the Respondent at the time of retirement.
14. In his Request the Complainant contends that he was forced into retirement. The Complainant argues that the Respondent has no policy which states that individuals who retire while not in good standing are ineligible to receive their retirement badges and credentials. The Complainant also references what appears to have been an earlier effort to settle the matter, wherein the Complainant would have received his retirement badge and credentials had he agreed to drop all pending legal action against the Respondent. The Complainant argues that he has put forth substantial evidence of national origin discrimination and retaliation.
15. In its Response, the Department argues that there is no substantial evidence of retaliation or of discrimination. The Department states that the Complainant is alleging for the first time in his Request that the Respondent's attorney offered to give him his retirement badge and credentials if the Complainant dismissed all legal action against the Respondent. The Department argues that even if such an offer was made, an offer to settle litigation does not give rise to an inference of retaliation or of a retaliatory motive.

16. The Commission's review of the Department's investigation file leads it to conclude that the Department properly dismissed the Complainant's charge for lack of substantial evidence.
17. The undisputed evidence in the file shows that other retirees had made written requests to the Respondent for their retirement badges and credentials. Accordingly, the Complainant's speculation that he was the only retiree required to make a written request for his retirement badge and credentials is not supported by the evidence.
18. The undisputed evidence in the file shows that the Respondent had a practice of withholding retirement badges and credentials from those who were not in good standing upon retirement. The Complainant has not put forth any evidence to show that the Respondent engaged in this practice in a discriminatory manner.
19. The Complainant has also not put forth any evidence of retaliation. The Complainant engaged in a protected activity when he filed his first charge of discrimination in September of 2007, and when he filed his subsequent charges and lawsuits thereafter. However, there is no substantial evidence of a causal connection between these protected activities and the Respondent's denial of his retirement badge and credentials. Rather, the evidence shows that the Respondent's actions toward the Complainant are consistent with its prior actions toward other officers who were not in "good standing" at the time of retirement.
20. The evidence shows that in the past, the Respondent had classified retirees who had been suspended by the MSPB as not being in "good standing." The evidence shows that the Complainant was treated the same as those retirees. There is simply no substantial evidence of retaliation when, as here, the evidence shows that the Complainant was treated the same as similarly situated retirees.
21. Finally, the Complainant's suggestion that the Respondent's attempt to settle litigation gives rise to an inference of retaliation has no basis in the law.
22. Accordingly, it is the Commission's decision that the Complainant has not presented any evidence to show that the Department's dismissal of the 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 the Cook County Sheriff's Office, as appellees, 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 16<sup>th</sup> day of September 2009.**

Commissioner Marti Baricevic

Commissioner Robert S. Enriquez

Commissioner Gregory Simoncini