STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: 2008SA2218
	)	
PATRICIA MEFFORD	)	ALS NO.: 09-0335
	)	
Complainant.	)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Marti Baricevic, Robert S. Enriquez, and Greg Simoncini, presiding, upon the Complainant's Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Department") of Charge No. 2008SA2218, Patricia Mefford, Complainant, and Nashville Community High School District #99, 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 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. The Complainant filed a multi-count charge of discrimination with the Department on February 19, 2008, alleging that the Respondent subjected her to unequal terms and conditions of employment due to her age (51) (Count C), reduced her extracurricular work hours due to her age (Count D), and subjected her to unequal terms and conditions of employment due to her age (Count E and F), in violation of Section 2-102(A) of the Illinois Human Rights Act (the "Act"). On February 20, 2009, Counts A and B were administratively closed by the Department at the Complainant's request and are not before the Human Rights Commission. On June 25, 2009, the Complainant filed a timely Request.

2. The Complainant has been employed with the Respondent, a community high school district, as a secretary since 1984.

3. Wendy Davis ("Davis"), age 51 has been the Respondent's Superintendant since 2003.

4. The Complainant alleges that the Respondent treated her less favorably than younger secretaries under similar circumstances. These secretaries ranged from 43 to 57 years of age.

5. On August 28, 2007, Davis informed the Complainant that she was allowed on the school premises only between the Complainant's scheduled work hours of 8:00 a.m. and 4:00 p.m. The Respondent cited two reasons: 1) the Complainant had taken purchase orders home without managerial approval, these orders had to be reviewed by the managerial staff before the orders were sent out; 2) the Complainant came to work before her work hours and was caught in Davis' office with her hands on some documents.

6. On September 5, 2007, the Respondent assigned the Complainant a "set" lunch period. The Respondent's other secretaries were also assigned lunch periods.

7. On October 24, 2007, Davis instructed the Complainant that the Complainant should keep her personal calls to less than three minutes except for calls from her son, who is serving in the military in Iraq.

8. Finally, on December 21, 2007, the Respondent reduced the Complainant's extracurricular work hours. Prior to December 21, 2007, the Complainant worked the school's ballgames. During these ballgames, the Respondent stated that the Complainant had a history of being rude with the staff. For that reason, Davis and Neil Hamon ("Hamon"), the Athletic Director and Dean of Students, no longer permitted the Complainant to work at these ballgames. Thereafter, the Respondent scheduled a 57-year-old secretary to replace the Complainant at these ballgames.

9. The Complainant alleges in her charge and her Request that the Respondent took these various actions against her, as described above, because of her age. While the Complainant submits with her Request numerous testimonials in support of her integrity and loyalty to the Respondent, she submits no further evidence in support of the allegations in her charge.

10. The Commission's review of the investigation file leads it to conclude that the Department properly dismissed the Complainant's charge for Lack of Substantial Evidence. There is no evidence in the record that similarly situated employees outside of the Complainant's protected class were treated more favorably. Further, there is no evidence that the Respondent's stated reason for its actions were a pretext for age discrimination.

11. In order to establish a prima facie case that the Complainant was subjected to unequal terms and conditions of employment due to her age, there must be some evidence in the investigation file that: 1) the Complainant is a member of a protected class; 2) the Complainant was treated in a particular way by the Respondent; 3) that

similarly situated employees outside her protected class were treated more favorably. *See* Pettis and McDonald's Corp. 2001 WL 34778858, Charge No. 1991CF2143, ALS. No. 10754, (April 9, 2001), *citing* Moore and Beatrice Food Co., 40 Ill. HRC Rep. 330 (1988).

12. The Respondent is entitled to make employment decisions based on its reasonable belief surrounding the situation. The Respondent may take its action for good reason, bad reason, reason based on erroneous facts, or for no reason at all, as long as its action is not for a discriminatory reason. *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).

13. The Respondent has articulated a legitimate non-discriminatory reason for instructing the Complainant to report to work according to her schedule, to keep the Complainant's personal phone calls to a minimum, and to no longer schedule her for extracurricular activities. There was no evidence of a nexus between the Complainant's age and the Respondent's actions.

14. There is also no evidence that the Respondent harbored an animus towards the Complainant because of her age. In fact, the evidence shows that the secretary the Respondent assigned to replace the Complainant at its ballgames was older than the Complainant.

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

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of 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 Respondent Nashville Community High School District #99, as appellees, 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 24th day of November 2009.

Commissioner Marti Baricevic

Commissioner Robert S. Enriquez

Commissioner Greg Simoncini