STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST	)		
FOR REVIEW BY:	)	CHARGE NO.:	2008CN4021
	)	EEOC NO.:	N/A
PATRICIA DESHERLIA	)	ALS NO.:	10-0145
	)		
Petitioner.	)		

ORDER

This matter coming before the Commission by a panel of three, Commissioners David Chang, Marylee V. Freeman, and Charles E. Box presiding, upon Patricia Desherlia's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")[1] of Charge 2008CN4021; 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 is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following:

1. On April 14, 2008 the Petitioner filed an unperfected charge of discrimination with the Respondent. The charge was perfected on August 27, 2008, and amended August 5, 2009. The Petitioner alleged that Global Brass & Copper, Incorporated, d/b/a Olin Brass ("Employer") discharged her because of her sex, female (Count A) and in retaliation for having opposed unlawful discrimination (Count B), in violation of Sections 2-102(A) and 6-101(A) of the Illinois Human Rights Act ("Act"). On February 1, 2010, the Respondent dismissed the Petitioner's charge for lack of substantial evidence. On February 24, 2010, the Petitioner filed this timely Request.

2. The Petitioner was employed as a machine operator.

[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 Department's action shall be referred to as the "Petitioner."

3. The Employer had in place Guidelines for Safety Discipline ("GSD"). The GSD described two safety violation categories. Category I consists of any safety infraction including, but not limited to any infraction causing, or with the potential to cause, bodily injury requiring first aid or medical treatment, property damage or regulatory citations. Category II consists of safety infractions that have the likelihood to cause serious injury or death to employees or to his/her co-workers/ or to cause public or significant property damage.

4. In June 2007, the Employer disciplined the Petitioner for committing two Category I violations. The Employer determined the Petitioner committed a Category II violation on January 13, 2008.

5. On January 15, 2008, the Employer discharged the Petitioner. The Employer stated it discharged the Petitioner because she had repeatedly violated its safety rules.

6. In her charge, the Petitioner alleged the Employer discharged her because of her sex. The Petitioner also alleged the Employer discharged her in retaliation for having complained about unlawful sex discrimination in November 2007 and on December 10, 2007.

7. In her Request, the Petitioner argues that the Illinois Department of Employment Security determined she had been wrongfully terminated and that she was not responsible for any accident. The Petitioner contends two male co-workers were never disciplined for safety infractions, and that the Employer never trained her to do her job properly.

8. In its Response, the Respondent asks the Commission to sustain its dismissal of the Petitioner's charge. The Respondent determined there was evidence that the Employer had also discharged male employees for committing safety violations; therefore, there was no substantial evidence the Petitioner was treated less favorably than similarly situated male employees. The Respondent also determined the Employer had articulated a non-discriminatory and non-retaliatory reason for discharging the Petitioner, and there was no substantial evidence of pretext.

Conclusion

The Commission concludes the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination or retaliation exists after the Respondent's investigation of a charge, the charge must be dismissed. *See* 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. *See* In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747, 1995 WL 793258, *2 (March 7, 1995).

As to Count A, the Commission concludes the evidence is insufficient to establish a *prima facie* case of sex discrimination because there is no evidence the Petitioner was treated less favorably than similarly situated male employees under similar circumstances.

As to Count B, there is no evidence from which a reasonable mind could conclude the Employer was motivated by retaliation. First, the Petitioner had been disciplined by the Employer for alleged safety violations as early as June 2007—which was five months *prior* to the first time the Petitioner complained of sex discrimination in November 2007. Further, although the Petitioner complained of sex discrimination on December 10, 2007, no adverse action was taken against her until January 15, 2008, which was two days after the Petitioner had allegedly committed a Category II offense on January 13th. Given this sequence of events, the Commission finds no substantial evidence of a causal connection between the adverse action and the Petitioner's protected activity.

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

WHEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of the Petitioner'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

Global Brass & Copper, Incorporated, d/b/a Olin Brass, as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS	**)**	
	)	**Entered this 13th day of October 2010.**
HUMAN RIGHTS COMMISSION	**)**	

Commissioner David Chang

Commissioner Marylee V. Freeman

Commissioner Charles E. Box