

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST )	
FOR REVIEW BY: )	CHARGE NO.: 2009CF1054
)	EEOC NO.: 21BA90097
<b>CONSTANCE JEFFERSON</b> )	ALS NO.: 09-0532
)	
Petitioner. )	

**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 Constance Jefferson's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")<sup>1</sup> of Charge No. 2009CF1054; and the Commission having reviewed *de novo* the Respondent's investigation file, including the Investigation Report and the Petitioner's Request and supporting materials, and the Respondent's response to the Petitioner's Request; 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 findings of fact and reasons:

1. On October 9, 2008, the Petitioner filed a charge of discrimination with the Respondent. The Petitioner alleged Chicago State University ("Employer") refused to tender her paycheck in retaliation for the Petitioner having opposed unlawful discrimination, in violation of Section 6-101(A) of the Illinois Human Rights Act (the "Act"). On August 13, 2009, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On September 24, 2009, the Petitioner filed this timely Request.
2. The Petitioner worked for the Employer as an Administrative Secretary.
3. The Petitioner was a union member. Therefore, the Petitioner's rights and obligations were determined in part by a Collective Bargaining Agreement ("CBA") between her union and the Employer.
4. In a letter dated June 26, 2008, the Employer notified the Petitioner her position was being eliminated as of June 30, 2008, due to restructuring.

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<sup>1</sup> 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."

5. Pursuant to the Civil Services Statutes and Rules and to the CBA, the Petitioner had “bumping” rights. “Bumping” rights allowed the Petitioner to avoid layoff by taking a similar position within the Employer’s organizational structure, even if this meant “bumping” a less senior employee out of that position.
6. The Petitioner exercised her “bumping” rights and took a new position in the Employer’s Career Development Center on July 1, 2008. Once the Petitioner began working in the Employer’s Career Development Center, she was required to adhere to a new work schedule.
7. Thereafter, the Petitioner routinely failed to adhere to her new work schedule.
8. Pursuant to the CBA, the Employer used a Progressive Discipline Policy (“PDP”) consisting of the following steps: **(1)** verbal warning; **(2)** written reprimand; **(3)** suspension without pay; and **(4)** discharge.
9. For failing to adhere to her new work schedule, the Employer progressively disciplined the Petitioner as follows: **(1)** On July 14, 2008, the Petitioner received a written warning; **(2)** On July 18, 2008, the Petitioner was issued a one-day suspension; **(3)** The Petitioner was issued a five-day unpaid suspension from August 6, 2008 through August 12, 2008; **(4)** The Petitioner was issued a ten-day unpaid suspension from August 18, 2008-August 29, 2008, and **(5)** On September 18, 2008, the Employer issued the Petitioner a notice of unpaid suspension pending discharge.
10. The Employer issues paychecks on the 15<sup>th</sup> and 30<sup>th</sup> of each month.
11. Following the Petitioner’s suspension on September 18, 2008, the Petitioner did not receive a paycheck on September 30, 2008, because she had not worked the previous two weeks.
12. Between July 21, 2008, and September 15, 2008, the Petitioner filed four (4) charges of discrimination with the Respondent against the Employer.
13. In her charge, the Petitioner alleges her September 30, 2008, paycheck was withheld in retaliation for having filed the four (4) charges of discrimination. The Petitioner submits no additional relevant evidence in support of her Request.

### **Conclusion**

The Commission’s review of the Respondent’s investigation file leads it to conclude 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. See 775 ILCS 5/7A-102(D).

There is simply no evidence in the file to substantiate the Petitioner’s retaliation claim. The file clearly shows the Petitioner was compensated for the hours she worked. The Petitioner did not receive a paycheck on September 30, 2008, because she had been suspended from work *without pay* during the relevant two-week pay period.

*In the Matter of the Request for Review by: Constance Jefferson*

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.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

The dismissal of 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 Chicago State University as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

**STATE OF ILLINOIS**

**HUMAN RIGHTS COMMISSION**

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**Entered this 24<sup>th</sup> day of March 2010.**

Commissioner Sakhawat Hussain, M.D.

Commissioner Spencer Leak, Sr.

Commissioner Rozanne Ronen