

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:

Amanda Anderson,

Complainant,

and

Catholic Charities of the Archdiocese of Chicago,

Respondent.

CHARGE NO(S): **2019CR2349**

ALS NO(S): **20-0285**

NOTICE

You are hereby notified that the Illinois Human Rights Commission has not received timely exceptions to the Recommended Order and Decision in the above-named case. Accordingly, pursuant to Section 8A-103(A) and/or 8B-103(A) of the Illinois Human Rights Act and Section 5300.910 of the Commission's Procedural Rules, that Recommended Order and Decision has now become the Order and Decision of the Commission.

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

Entered this November 29, 2022

Tracey Fleming
EXECUTIVE DIRECTOR

IN THE MATTER OF:	)	
	)	
AMANDA ANDERSON,	)	
	)	
Complainant,	)	
	)	Charge No.: 2019CR2349
and	)	EEOC No.: N/A
	)	ALS No.: 20-0285
CATHOLIC CHARITIES OF THE	)	
ARCHDIOCESE OF CHICAGO,	)	
	)	Judge William J. Borah
Respondent.	)	

This matter comes to be heard on Respondent's Motion for Summary Decision. As part of Respondent's motion, Respondent attached an affidavit of Mary Ann Bibat, Vice President of Senior Social Services, as well as other supportive documentation. Complainant was scheduled a date to file her response but chose not to file any brief. Respondent filed a reply.

The matter is ready for decision.

The following facts were derived from uncontested sections of the pleadings, affidavit, and other documentation submitted. The findings did not require, and were not the result of, credibility determinations.

1

Payroll Coordinator. On May 1, 2011, Complainant was selected as Controller, Senior Services and Health Care.

2. Complainant received and signed a copy of the Management Job Description for the Controller position. In general, the essential function of the position included, but was not limited to “managing and ensuring all revenues and expenses, as budgeted, are received and accounted for on a monthly, annual, or as needed basis,” as well as “analyzing, reconciling, and approving assigned billings, general ledger accounts, account analysis, and journal entries to make financial projections, and resolving discrepancies to accounts by making the necessary adjustments.”

3. As per Respondent’s Standards of Conduct, Progressive Discipline, and Termination of Employment Policy, “All employees have an ‘at will’ employment relationship with Catholic Charities. This mean that either Catholic Charities or an employee may terminate the employment relationship at any time, for any reason that is not discriminatory or otherwise in violation of the law or Agency policy, with or without notice.” Although Respondent had a “progressive discipline policy,” it stated that “In some instances, depending on the severity of the conduct involved, not all steps of progressive discipline will be used.” “A major violation is cause for immediate termination of employment.”

4. Mary Ann Bibat, Respondent’s Vice President of Senior Social Services, averred that her letter of April 23, 2019, titled Termination of Employment, sent to Complainant, summarized the basis of Complainant’s employment separation, which was based on “significant performance issues...”

[Y]ou (Complainant) mishandled the MCO billings which will result in the recognition of \$1.6 million in bad debt expense. Additionally, during the operational review of the CCU program it revealed that you made significant accounting errors which led to a negative variance of nearly \$1 million dollars. In both instances, you failed to communicate the severity of the situation and your actions or lack thereof either to myself or financial leadership.

It is your primary responsibility as the Service Area’s Controller to ensure accuracy with the revenue cycle, record revenue when earned, and promptly bill and collect

receivables. Moreover, you provided inaccurate financial data which impacts the Agency's ability to take appropriate action as well as secure continued funding.

5. Prior to Complainant's discharge, an investigation of her work performance was conducted by Respondent.

6. On April 23, 2019, Complainant was "discharged for conduct so severe as to warrant immediate termination."

7. A non-African American Controller, Melissa Schultz, was also discharged on the same day for similarly serious performance issues relative to Respondent's financial welfare.

CONCLUSIONS OF LAW

1. Complainant is an "employee," as that term is defined under the Illinois Human Rights Act (Act).

2. Respondent is an "employer," as that term is defined under the Act and was subject to its provisions.

3. Respondent has articulated a legitimate, nondiscriminatory reason for its decision to terminate Complainant.

4. Complainant has failed to present evidence of a *prima facie* case of race discrimination or that the reason given by Respondent for its action against Complainant was a pretext for race discrimination.

5. There is no genuine issue of material fact as to the race discrimination claims by Complainant and Respondent is entitled to a recommended order in its favor as a matter of law.

6. A summary decision in Respondent's favor is appropriate in this case.

DISCUSSION

SUMMARY DECISION STANDARD

Under section 8-106.1 of the Act, either party to a complaint may move for summary decision. 775 ILCS 5/8-106.1. A summary decision is analogous to a summary judgment in the Circuit Courts. Cano v. Village of Dolton, 250 Ill.App.3d 130, 620 N.E.2d 1200 (1st Dist. 1993).

A motion for summary decision should be granted when there is no genuine issue of material fact and the moving party is entitled to a recommended order in its favor as a matter of law. Fitzpatrick v. Human Rights Comm'n, 267 Ill.App.3d 386, 642 N.E.2d 486 (4th Dist. 1994). All pleadings, affidavits, interrogatories, and admissions must be strictly construed against the movant and liberally construed in favor of the non-moving party. Kolakowski v. Voris, 76 Ill.App.3d 453, 395 N.E.2d 6 (1st Dist. 1979). Although not required to prove her case as if at a hearing, the non-moving party must provide some factual basis for denying the motion. Birck v. City of Quincy, 241 Ill.App.3d 119, 608 N.E.2d 920 (4th Dist. 1993). Only facts supported by evidence, and not mere conclusions of law, should be considered. Chevrie v. Gruesen, 208 Ill.App.3d 881, 567 N.E.2d 629 (2d Dist. 1991). If a respondent supplies sworn facts that are uncontroverted, it is warranted judgment in its favor as a matter of law, and complainant may not rest on his pleadings to create a genuine issue of material fact. Fitzpatrick, supra. Where the party's affidavits stand uncontroverted, the facts contained therein must be accepted as true and, therefore, a party's failure to file counter-affidavits in response is frequently fatal to her case. Rotzoll v. Overhead Door Corp., 289 Ill.App.3d 410, 681 N.E.2d 156 (4th Dist. 1997). Inasmuch as summary decision is a drastic means for resolving litigation, the movant's right to a summary decision must be clear and free from doubt. Purtill v. Hess, 111 Ill.2d 229, 489 N.E.2d 867 (1986).

RACE DISCRIMINATION STANDARD

The tripartite standard for establishing whether there exists disparate treatment based on race, is as follows:

1. Complainant must establish a *prima facie* case;
2. Respondent must articulate some legitimate, non-discriminatory reason for its adverse employment action;
3. Complainant must prove (show) that Respondent's reason was a mere pretext for discrimination.

The general elements of a *prima facie* case of disparate treatment for race discrimination are as following:

1. Complainant is a member of a protected class;
2. Complainant was performing her job consistent with Respondent's legitimate expectations;
3. Complainant suffered an adverse employment action;
4. Similarly situated persons who are not members of the Complainant's protected class were not treated in the same manner. Illinois Livingston Co. and Illinois Human Rights Commission, 302 Ill. App. 3rd 141, 704 N.E.2d 797 (1st Dist. 1998); Riles and Brach Candy Company, IHRC, ALS No. (S) 4618, August 26, 1994.

ANALYSIS

Elements one and three are not in dispute. Complainant is African American and was discharged on April 23, 2019. Complainant has chosen not to contribute to her case by failing to respond to Respondent's motion, with its supportive affidavit and documents.

As to the second element, Respondent maintains that an employee who violates its policy is, as a matter of law, not performing her job duties according to its legitimate expectation. The undisputed facts show that Complainant, as Comptroller, significantly failed at the essential functions of her position where it reached the level of a "major violation," that cost Respondent millions of dollars. In support of its position, Respondent presented supportive documents of its investigation and the affidavit of Mary Ann Bibat, Vice President of Senior Services. "Where the party's affidavits stand uncontroverted, the facts contained therein must be accepted as true and, therefore, a party's failure to file counter-affidavits in response is frequently fatal to her case." Rotzoll v. Overhead Door Corp., 289 Ill.App.3d 410, 681 N.E.2d 156 (4th Dist.1997). Complainant fails to establish the second element of her *prima facie* case.

Respondent also maintains that Complainant failed to demonstrate the fourth element of her *prima facie* case. Respondent points to Complainant's failure to identify any similarly

situated employees who were treated more favorably than she. The record supports Respondent. In fact, Respondent submitted that a non-African American Controller was also discharged on the same day as Complainant for similarly serious performance issues relative to Respondent's financial welfare. Therefore, Complainant fails to establish the fourth element of her *prima facie* case.

Because Complainant failed to submit sufficient evidence to create a genuine issue of fact as to her *prima facie* case of race discrimination, Respondent is entitled to summary decision.

Thus, a recommended order in Respondent's favor is appropriate in this case.

RECOMMENDATION

Based upon the foregoing, there are no genuine issues of material fact and Respondent is entitled to a recommended order in its favor as a matter of law. Accordingly, it is recommended that the complaint and underlying charge in this matter be dismissed in its entirety, with prejudice.

ENTERED: August 16, 2022

HUMAN RIGHTS COMMISSION

BY:

WILLIAM J. BORAH
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

NOTICE TO THE PARTIES REGARDING EXCEPTIONS

Pursuant to 56 Ill. Admin. Code § 5300.920, any party that wishes to file exceptions to this Recommended Order and Decision must do so within thirty (30) days of service of this Recommended Order and Decision. Please be advised that contrary to practices occurring during the COVID-19 pandemic, exceptions to this Recommended Order and Decision CANNOT be filed by e-mail. Instead, any party wishing to filing exceptions to this Recommended Order and Decision must ensure that such exceptions arrive at the Commission by mail, fax, or in-person service within thirty (30) days, as required by 56 Ill. Admin. Code § 5300.920.