

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST
FOR REVIEW BY:

MARVIN BOWMAN,

Petitioner.

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CHARGE NO.: **2021CF2658**
EEOC/HUD NO.: **21BA20510**
ALS NO.: **23-0276**

ORDER

This matter coming before the Commission on April 10, 2024, by a panel of three, Commissioners Elizabeth A. Coulson, Demoya R. Gordon, and Stephen A. Kouri II presiding, upon the Request for Review (“Request”) of Marvin Bowman (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2021CF2658, 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 Respondent’s dismissal of Petitioner’s charge is **SUSTAINED** for **LACK of SUBSTANTIAL EVIDENCE**.²

DISCUSSION

On January 19, 2021, Petitioner filed a charge of discrimination with Respondent, perfected on July 27, 2022, alleging that Chicago Teachers Union, Local 1, 1FT-AFT, AFL-CIO (“Union”) failed to represent him on account of his religion, Bible Christian, on October 26, 2020, when Petitioner’s employer, Chicago Public Schools (“CPS”), denied him a reasonable accommodation (Count A), in fall 2020 when CPS violated its collective bargaining agreement (“CBA”) between CPS and his Union (Count B), and in the ensuing appeal of that matter (Count C), in violation of Section 2-102(C) of the Illinois Human Rights Act (“Act”). On July 23, 2023, Respondent dismissed Petitioner’s charge for lack of substantial evidence. Petitioner filed a timely Request.

Factual Background

The Union represents CPS teachers and education support personnel. Petitioner has been a member in good standing with the Union since he began working for CPS in 2004 as a teacher. Zeidre Foster was Petitioner’s representative from the Union in fall 2020.

On October 26, 2020, Petitioner stated that he filed a grievance authorization form with his Union because, on October 2, 2020, CPS denied him a paid day off as an accommodation to observe a religious holiday. Subsequently, the Union filed a grievance with CPS on Petitioner’s behalf on October

¹ In a Request for Review proceeding, the party filing the Request for Review is referred to as the “Petitioner” and the Illinois Department of Human Rights is the “Respondent.”

² This order is entered pursuant to a 3-0-0 vote by the Commissioners.

30, 2020. Petitioner was ultimately paid for the workday he missed on October 2, 2020, in November 2020, after the grievance was filed.

Petitioner stated that, on another unspecified date in fall 2020, he requested a grievance be filed on his behalf because CPS had assigned him classes that were above the 30/70 Special Education Perspective. According to Petitioner, both Illinois law and the provisions of the CBA prohibit a core education teacher from being assigned a classroom that has more than 30% special needs students. Petitioner stated that in fall 2020, he had a classroom that was 65% special needs students. Petitioner stated that no other non-Bible Christian core teachers who were members of the Union have had over 30% special needs students for the last several years like he has. Petitioner also stated that once Ali Muhammad became principal at Petitioner's school in 2017, his Union has elected not to hold Muhammad accountable for allowing Petitioner to have non-compliant classrooms. On October 23, 2020, the Union filed a grievance on his behalf regarding his non-compliant classrooms. Petitioner also stated that his Union filed an appeal in this matter on his behalf on November 13, 2020, but that he had a ratio above 30% for the rest of the 2020-2021 school year. According to Petitioner, a hearing on this matter did not take place until January 2023. The record does not indicate what the outcome of the hearing was. Petitioner stated, however, that nothing has happened since and that the matter is still unresolved to date. Petitioner stated that Foster told him that CPS was backed up and that it might take years before anything would happen. Petitioner did not state that there is a specific timeframe articulated in his Union's policies or the CBA that dictates how soon his Union must resolve a grievance on his behalf.

According to copies of the grievances filed by the Union, it filed a grievance at the school level on Petitioner's behalf on October 30, 2020, regarding CPS's denial of Petitioner's religious accommodation request to observe a religious holiday. On November 5, 2020, Foster received a check payable to Petitioner as compensation for the day Petitioner took off to observe the religious holiday, resolving the matter.

The Union also filed a grievance on Petitioner's behalf at the district level on October 23, 2020, alleging that Petitioner's school was in violation of the CBA in that Petitioner's classroom had an impermissible distribution of special needs students. According to Foster, Muhammad confirmed that Petitioner's school was not in compliance with the CBA, as it had not filed an application for deviation form signed by Petitioner. Consequently, the Union filed an appeal to the October 23, 2020, grievance on November 13, 2020, with the Board of Education of the City of Chicago ("Board"). The appeal, however, was filed with the Board during the COVID-19 pandemic and CPS had developed a backlog of thousands of cases. According to Foster, that is why it was difficult to get a hearing scheduled on the matter and the delayed resolution of Petitioner's October 23, 2020, grievance is not the Union's fault.

Analysis

Under the Act, substantial evidence is “evidence which a reasonable mind accepts as sufficient to support a particular conclusion and which consists of more than a mere scintilla but may be somewhat less than a preponderance.” 775 ILCS 5/7A-102(D)(2). If no substantial evidence of discrimination exists after the Respondent’s investigation of a charge, the charge must be dismissed. 775 ILCS 5/7A-102(D). Accordingly, the Commission concludes that Respondent properly dismissed Petitioner’s charge for lack of substantial evidence.

The Act makes it a violation for any labor organization to “take, or fail to take, any action which affects adversely any person’s status as an employee.” 775 ILCS 5/2-102(C). Further, in order to establish a *prima facie* case of discrimination, the evidence must show: (1) Petitioner is a member of a protected class, (2) he suffered a materially adverse act, and (3) others outside of his protected class received more favorable treatment. See *In re Request for Review by: Vincent Williams*, IHRC, ALS No. 19-0295, 2019 ILHUM LEXIS 1463, *4 (December 17, 2019); *In re Request for Review by: Keisha Allen*, IHRC, ALS No. 16-0376, 2019 ILHUM LEXIS 737, *8 (May 14, 2019).

Here, in Count A, Petitioner stated that his Union failed to represent him on account of his religion when he filed a grievance authorization form on October 26, 2020, in Count B, when he filed another grievance authorization form on an unspecified date in fall 2020 and, in Count C, during the subsequent appeal of the grievance in Count B. The evidence establishes that prong one is satisfied in each of the counts, as Petitioner is a member of a protected class. Prong two is not satisfied, however, as the evidence does not show Petitioner was subjected to a materially adverse act. As to Count A, the evidence shows that the Union filed a grievance on Petitioner’s behalf and that the matter was resolved in his favor. As to Counts B and C, the evidence shows his Union filed both a grievance and subsequent appeal on Petitioner’s behalf. Because Petitioner was not subjected to a materially adverse act so as to satisfy prong two, there is no need to consider prong three, whether others outside of his protected class received more favorable treatment, here. Accordingly, there is insufficient evidence to support a *prima facie* case of a religious-based failure to represent claim as to Counts A, B, and C.

In his Request, Petitioner takes issue with how long it took his Union to address his grievances. However, there is no evidence in the record regarding a specific timeframe in his Union’s policies or the CBA that dictates how soon his Union must resolve a grievance on his behalf. Petitioner also alleges that there is evidence of collusion between his Union and CPS, but there is no such evidence in the record or attached to his Request to that effect.

CONCLUSION

After reviewing the record, the Commission concludes that the Respondent’s dismissal of the charge for lack of substantial evidence was in accordance with the Act.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent's dismissal of Petitioner's charge is **SUSTAINED** for **LACK of SUBSTANTIAL EVIDENCE**.
2. This is a final Order. A final Order may be appealed to the Illinois Appellate Court by filing a Petition for Review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Chicago Teachers Union, Local 1, 1FT-AFT, AFL-CIO as respondents, 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 16th day of APRIL 2024.

Commissioner Elizabeth A. Coulson

Commissioner Demoya R. Gordon

Commissioner Stephen A. Kouri II