

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE)
REQUEST FOR REVIEW BY:)
)
SUZANNE GEORGE,) Charge No.: 2023CF0542
Petitioner.) EEOC No.: 21BA60250
) ALS No.: 24-0003
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ORDER

This matter coming before the Commission on June 5, 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 Suzanne George (“Petitioner”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2023CF0542, 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 **VACATED**, and the charge is **REMANDED** to Respondent for **FURTHER INVESTIGATION** and for further proceedings that are consistent with this Order and the Illinois Human Rights Act (“Act”).²

DISCUSSION

On August 30, 2022, Petitioner filed a charge of discrimination with Respondent, perfected on February 23, 2023, alleging that Unify Consulting, LLC (“Employer”), discharged her on account of her sex, female (Count A), her color, dark brown (Count B), and ancestry, Indian (Count C), in violation of Section 2-102(A) of the Act. On September 26, 2023, Respondent dismissed Petitioner’s charge for lack of substantial evidence. Petitioner filed a timely Request.

Factual Background

On February 1, 2021, Petitioner began working with Employer, as a Talent Acquisition Director. Petitioner’s role was full-time and remote. Although she never received a written job description, Petitioner understood her role to be reaching out to and recruiting prospective employees for leadership positions. Petitioner asserted that she would reach out to prospective employees via her own network of people she knew in Chicago, and that she did not solely use LinkedIn for outreach. Her offer letter, dated January 29, 2021, states that Petitioner’s goals are “to become a valuable member of the core leadership team, accountable for hitting your key metrics.”

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.

Petitioner's supervisor was Employer's Chief People Officer Stephanie Reynolds. Petitioner asserted that she was not disciplined while working at Employer and that she would receive praise from Reynolds, Employer's Chief Operating Officer Joey Delovino, as well as Vice President BJ Ong. Petitioner asserted that Employer did not have a formal evaluation process, but she would have conversations about her work performance in team meetings and video calls. Petitioner asserted that, prior to her discharge, there were no discussions about her having poor performance. Petitioner also asserted that, prior to her discharge, she was being considered for a promotion.

On December 17, 2021, according to Petitioner, McFayden told Petitioner that McFayden had a conversation with Reynolds in which Reynolds told her that the perception of some of the male leaders at Employer of Petitioner was that Petitioner was too brash and too direct. Petitioner asserted that McFayden told her that Reynolds thought Petitioner needed to change this perception of her. Petitioner asserted that McFayden told her that Reynolds stated that the men cannot handle strong female personalities and that Employer was a "boy's club" that was not going to change. Petitioner also asserted that she had had conversations with Reynolds directly about how men at Employer perceived Petitioner to be too direct. Petitioner also asserted that Reynolds told her that she did not act or present herself in a way that conforms to the traditional Indian woman. According to Petitioner, McFayden was not interviewed by Respondent during its investigation.

Petitioner asserted that on January 5, 2022, Reynolds advocated for her to attend an executive leadership immersion program and said that Petitioner was a strong leader that was very talented and knowledgeable but, to be a successful leader at Employer, Petitioner needed to change her style and approach when interacting with male leaders.

On February 17, 2022, Petitioner was discharged by Employer, via a Microsoft Teams call. Reynolds and Human Resources Employee Jas Gil were both present for the call. Petitioner asserted that Reynolds stated during the call that Petitioner was being discharged on account of her poor performance. More specifically, according to Petitioner, Reynolds cited Petitioner's prioritization and failure to work on specific projects as reasons for Petitioner's discharge. Petitioner asserted that Reynolds noted that Petitioner had received similar feedback and/or coaching from both Ong and Managing Director Beth McFayden. Petitioner disputed she received any such feedback or coaching. Petitioner further asserted that she did not fail to prioritize the tasks or projects Reynolds cited during the call.

Reynolds stated that Employer did not have a discipline policy prior to Petitioner's discharge. Reynolds also stated that she received good feedback about Petitioner from other management personnel prior to becoming Petitioner's supervisor. According to Reynolds, Petitioner was part of a team that was specifically focused on recruiting leaders. Reynolds asserted that she disciplined Petitioner about prioritization and focusing on specific activities. Reynolds asserted that a significant portion of Employer's recruiting efforts depend on outreach, particularly through LinkedIn. Reynolds asserted that, throughout the duration of Petitioner's employment, Petitioner maintained a failing recruitment pattern and did not make the necessary number of outreach offers. Reynolds asserted that Petitioner was expected to follow the "10-2-1" model, which consisted of reaching out to or meeting

with ten different prospective recruits per week, resulting in two offers, ideally resulting in one hire. The 10-2-1 model was not included in Petitioner's job description, but Reynolds asserted that it had been discussed as the standard of measuring Petitioner's performance. Reynolds did not specifically recall explaining the 10-2-1 model to Petitioner. Reynolds stated that Director of Leadership Acquisition, Megan Cotton, who had a similar role to Petitioner, was also subject to the 10-2-1 model, but was not meeting the model's expectations either. Reynolds stated that she made the initial decision to discharge Petitioner, as Petitioner had failed to prioritize recruiting for a specific role in a specific market and, additionally, was not doing enough outreach.

Reynolds stated that she did say that Employer was a "boy's club." Reynolds also asserted that Petitioner had a strong personality and/or hypercritical orientation that meant Petitioner was overly direct in a way that did not resonate with her coworkers. Reynolds further asserted that she was not aware of Petitioner's ancestry and that it was never discussed.

Reynolds also stated that she demoted former Vice President Joseph Dunn (male, non-dark brown complexioned, and non-Indian) to Senior Director on account of his poor work performance, but, unlike Petitioner, Reynolds did not discharge him.

According to documentation provided to Respondent from Employer, Petitioner only sent 620 LinkedIn messages to prospective recruits, while Cotton, and Recruiters Shannon Velasco and Clara Miller sent 1,318, 1,327, and 3,947 LinkedIn messages to prospective recruits, respectively. Additionally, according to documentation provided to Respondent by Employer, Senior Recruiter Jackie Van Over (female, non-dark brown complexioned, non-Indian) was discharged due to poor performance on February 7, 2022, just prior to Petitioner's discharge.

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). Accordingly, the Commission concludes that Respondent improperly dismissed Petitioner's charge for lack of substantial evidence.

Counts A, B, & C

In order to establish a *prima facie* case of discriminatory discharge, the evidence must show: (1) Petitioner is a member of a protected class; (2) she was performing satisfactorily; (3) she was discharged despite the adequacy of her work; and (4) a similarly situated employee who is not a member of the protected class was not discharged. See *Marinelli v. Human Rights Comm'n*, 262 Ill. App. 3d 247, 253 (2nd Dist. 1994).

Here, Petitioner claims that Employer discharged her on account of her sex (Count A), her color (Count B), and her ancestry (Count C). As to all three counts, prong one is met, as Petitioner is a member of the asserted protected classes and prong three is met, as Petitioner was discharged.

Prong two is also met as to all three counts, as Petitioner claimed that she was not subjected to any discipline for her work performance while employed at Employer. Other than comments about her approach to working with her male coworkers, according to Petitioner, there was no indication that Petitioner was performing poorly. Additionally, Petitioner claims that she received positive feedback from her supervisors about her leadership and had discussions with Reynolds about a promotion. Although Reynolds's disputes Petitioner's characterization of the facts, the record is devoid of any objective testimony, such as performance evaluations, to assess Petitioner's performance. Employer did not have a formal review process for employees prior to Petitioner's discharge and Petitioner never received a written performance review. Thus, Reynolds's assertion that Petitioner was discharged for poor work performance is unsupported by objective evidence. To assign more credence to Reynolds's assertions that Petitioner struggled with the prioritization of certain tasks, outreach, and/or had a difficult time connecting with her coworkers would be improper at this stage of the proceedings, as these assertions are disputed by Petitioner all throughout the record. See *Cooper v. Salazar*, No. 98 C 2930 (N.D. Ill.), 2001 U.S. Dist. LEXIS 17952, *21 (Nov. 1, 2001) ("[The Commission] is permanently enjoined from relying on any credibility determinations... without affording [petitioners] an opportunity to confront and cross examine witnesses against them"). Based on the record, the Commission cannot determine whether prong two of the *prima facie* test is met as to each count without entering into an impermissible credibility determination. *Id.* Although the record includes a document that purports to objectively show Petitioner did not engage in as much outreach as her coworkers because she sent fewer LinkedIn messages to prospective employees, Petitioner asserts that she did not solely use LinkedIn to conduct outreach. The record does not indicate that Petitioner was required to send a certain amount of LinkedIn messages to satisfy her job requirements.

Lastly, as to all three counts, further investigation is needed to determine whether prong four of the *prima facie* test is met. As to Count A, the record indicates that Reynolds demoted Dunn for poor performance but did not discharge him. Although Reynolds claims that Dunn was not in a similar role to Petitioner, there is no discussion in the record regarding why Dunn and Petitioner's roles were dissimilar, nor was there any analysis regarding Dunn and Petitioner's job descriptions—neither of which are included in Respondent's investigation report for consideration. As to Counts B and C, it is unclear from the record whether Cotton was similarly situated to Petitioner because there is no assessment in Respondent's investigation report contrasting Cotton and Petitioner's roles, expectations, and/or job descriptions. That said, according to Reynolds, Cotton was not discharged even though, like Petitioner, she was not meeting the 10-2-1 expectation. Further, although Employer purportedly discharged Van Over due to her poor work performance, it does not necessarily follow that Employer discharged Petitioner on account of her poor work performance as opposed to Petitioner's color and ancestry. Like with both Dunn and Cotton, there is no assessment of Van Over's role and job description weighing whether her and Petitioner were, in fact, similarly situated. Without further investigation, it is indeterminable who, if any of these potential comparators, were similarly situated to Petitioner so as to inform whether prong four of the *prima facie* test is met as to any of the counts.

CONCLUSION

After reviewing the record, the Commission concludes that the Respondent's dismissal of the charge for lack of substantial evidence was not in accordance with the Act.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent's dismissal of Petitioner's charge is **VACATED**, and the charge is **REMANDED** to Respondent for **FURTHER INVESTIGATION** and for further proceedings that are consistent with this Order and the Act.

This Order is not yet final and appealable.

STATE OF ILLINOIS)
) Entered this 11th day of JUNE 2024.
HUMAN RIGHTS COMMISSION)

Commissioner Elizabeth A. Coulson

Commissioner Demoya R. Gordon

Commissioner Stephen A. Kouri II