

COOK COUNTY COMMISSION ON HUMAN RIGHTS
69 West Washington Street, Suite 3040
Chicago, Illinois 60602

Jasmine CHAVDA, Complainant)	
)	
)	Case No. 2012E018
v.)	
)	
HEALTH CARE SOLUTION GROUP,)	Entered: September 29, 2014
INC., Respondent)	
)	

ORDER FINDING SUBSTANTIAL EVIDENCE

On May 8, 2012, Complainant Jasmine Chavda (“Chavda”) filed a complaint against her former employer, Respondent Health Care Solution Group (“HCSG”). Chavda alleges that HCSG unlawfully terminated her on the basis of her age (60 years old at the time), race/national origin (Asian of Indian origin) and religion (Zoroastrianism) in violation of the anti-discrimination provisions of the Cook County Human Rights Ordinance (“Human Rights Ordinance”). See Cook County Code of Ordinances (“County Code”), § 42-35(b)(1). The Cook County Commission on Human Rights (“Commission”) has completed a preliminary investigation into Chavda’s allegations and determined that there is sufficient evidence that a violation of the Human Rights Ordinance occurred with respect to her first two claims (age and race/national origin) to justify a hearing on the merits. The final claim in Chavda’s complaint (religious discrimination) lacks substantial evidence and is dismissed.

BACKGROUND

The Commission incorporates by reference the Summary of Party and Witness Statements and Summary of Documentation set out in the attached Investigation Report and highlights only a few relevant findings. HCSG hired Chavda as a respiratory therapist in November 2011. Compl. ¶ I; Ver. Resp., § I. Chavda received a notice of termination from HCSG on or about January 7, 2012. Investig. Rep., Exh. C.

In that termination letter and in a verified response provided to the Commission, HCSG President Jorge Bolano (“Bolano”) states that he told Chavda on December 23, 2011, to return to work on December 27, 2011. *Id.*; Ver. Resp., § I. According to HCSG, Chavda was fired because she failed to return to work on that date and only called about returning to work on January 5, 2012, more than three days thereafter. Investig. Rep., Exh. C. In Chavda’s version of the events, however, she claims that Bolano told her on December 23, 2011, that HCSG would not have work for her during the holidays and that he would call her to return to work after the holidays. Compl. ¶ II.E-F. In Bolano’s interview with Commission staff, he contradicted his written statements that Chavda was to return specifically on December 27, 2011, and admitted that he only told her to return “after the holidays,” *i.e.* without setting a date certain. Bolano Interview (May 6, 2014).

Chavda further alleged that throughout the course of her brief employment at HCSG, Bolano made derogatory comments to her about her age, race and national origin. Compl. ¶ II.C. Specifically, Chavda claims that Bolano repeatedly told her that she was too old to do the job and that “Indians are stupid” and “Indians are lazy and cannot learn.” Chavda Interview (Jan. 29, 2014). Bolano denies making such statements and the sole witness to the statements that Chavda identified (other than herself and Bolano) also could not corroborate the statements. Bolano Interview (Feb. 21, 2014); Dvorak Interview (Apr. 16, 2014). What is not in dispute is that Chavda was among the oldest employees at HCSG and the only Asian of Indian origin prior to her termination.¹ Questionnaire Resp. No. 9.

With respect to her religious discrimination claim, Bolano asserted that he was not even aware of Chavda’s religion. Bolano Interview (Feb. 21, 2014). Chavda contends that he was, but could provide no explanation at all for how this could be the case. Chavda Interview (Jan. 29, 2014). Moreover, Chavda does not allege that Bolano or anyone else at HCSG made any religiously hostile comments about her faith. *Id.*

DISCUSSION

The Human Rights Ordinance prohibits any employer from “directly or indirectly discriminat[ing] against any individual in hiring, classification, grading, recruitment, discharge, discipline, compensation, selection for training and apprenticeship, or other term, privilege, or condition of employment on the basis of unlawful discrimination.” Cook County Code of Ordinances (“County Code”), § 42-35(b)(1). Discrimination on the basis of an individual’s age, race, national origin or religion is unlawful. *Id.* at § 42-31 (defining “unlawful discrimination”).

Here the Commission’s investigation into Chavda’s allegations of religious discrimination has produced nothing more than evidence that Chavda is a member of a protected class and she suffered an adverse employment action without any causal link as between the two. Because there is no evidence at all that she was terminated *because* she is a Zoroastrian, her claim for unlawful religious discrimination must be dismissed. *See Lopez v. Cook County Health & Hospitals System*, 2012E022, *4 (CCHRC Feb. 3, 2014) (dismissing complaints whose theory of discrimination is nothing more than “my supervisor was aware that I am a member of a protected class”).

The Commission’s investigation, however, has uncovered sufficient circumstantial evidence of age and race/national origin discrimination to merit a hearing on those charges. *See Cambron v. Kelvyn Press Incorporated*, 2011E021, *2 (CCHRC July 28, 2014) (“[A] direct case of discrimination can also be built around strong circumstantial evidence surrounding the respondent’s actions sufficient to raise an inference of discriminatory intent.”). Chavda alleges that Bolano repeatedly made derogatory comments to her about her age and her race/national origin. Bolano denies making such comments. The Commission does not ordinarily resolve these contested issues of party credibility at the investigatory stage, but Chavda’s claim is greatly weakened by her assertion that Bolano’s comments were witnessed by a third party. This is

¹ HCSG identified one older employee and noted that the respiratory therapist hired to replace Chavda is Asian of Filipino descent. Questionnaire Resp. Nos. 9(f), 9(j).

because when the Commission staff interviewed that third party, the witness denied that Bolano ever made ageist or racist comments.²

Yet the primary piece of circumstantial evidence that counsels this Commission to allow Chavda's claims to proceed to an administrative hearing on the merits is that there is substantial evidence that HCSG's purported nondiscriminatory reason for firing Chavda is pretextual. HCSG documents that Chavda was to return to work on December 27, 2011, and was terminated when she failed to do so. However, both Chavda and Bolano stated to Commission investigators that Chavda did not have a date certain for her return to work. This discrepancy may have been innocent sloppiness on the part of HCSG in terminating an employee who truly abandoned her job. Or the insertion of a date certain after the fact may be a belated attempt to mask HCSG's discriminatory motivations for terminating Chavda. The Commission is not inclined to guess when the matter can be resolved dispositively by a hearing.

CONCLUSION

For the foregoing reasons and those reasons set out in the adopted Investigation Report (Attachment 1), the Commission finds a LACK OF SUBSTANTIAL EVIDENCE of religious discrimination and SUBSTANTIAL EVIDENCE of age and race/national origin-based discrimination in violation of the Human Rights Ordinance with respect to complaint 2012E018. Complaint 2012E018 is DISMISSED with respect to the charge of religious discrimination. The Commission will issue a notice of the date and time of an Initial Status for an Administrative Hearing on the remaining age and race/national origin charges. In accordance with CCHR Pro. R. 480.100(A), any party may file a request for reconsideration with the Commission within 30 days of the date of this order.

September 29, 2014

By delegation:



Ranjit Hakim
Executive Director of the Cook County
Commission on Human Rights

² Nonetheless, the Commission recognizes that this witness may have her own credibility issues because she continues to be employed by HCSG and may not have felt that she could be frank with Commission investigators.