

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

Gina C. GRIGSBY, Complainant)	
)	
v.)	Case No. 2010E020
)	
OFFICE OF THE COOK COUNTY PUBLIC)	Entered: October 28, 2013
DEFENDER, Respondent)	

ORDER

On May 20, 2010, Complainant Gina C. Grigsby (“Grigsby”) filed a complaint against Respondent Office of the Cook County Public Defender (“Respondent” or the “Public Defender’s Office”) for race-based employment discrimination in violation of the Cook County Human Rights Ordinance (“Human Rights Ordinance”). Grigsby’s claim arises out of an April 12, 2010 demotion and pay reduction. The Cook County Commission on Human Rights (“Commission”) dismisses the complaint for lack of substantial evidence of any unreleased violation of the Human Rights Ordinance.

Background

Prior to April 12, 2010, Grigsby alleges that she held the title of “Director/Financial Control” in the Public Defender’s Office. Compl., ¶ I. On or about, April 12, 2010, Grigsby states that she was demoted to Accountant V, a less prestigious job that came with a \$6,600 reduction in pay. *Id.* at ¶¶ II, III.C. Grigsby, who is black, believes that this demotion was racially motivated because, according to her complaint, she was never disciplined or advised of any unsatisfactory conduct which would result in a demotion and because “other non-[]African-American employees have not been demoted.” *Id.* at ¶¶ III.D-E.

The Public Defender’s Office admits to demoting Grigsby. Verified Resp., ¶ II. It denies, however, any allegations of racial motivation for its decision. *Id.* at ¶ III.

On March 29, 2011, Grigsby entered into a settlement decision with the Public Defender’s Office covering “all claims, action, suits and demands of whatever nature against the Public Defender’s Office from and related to Grigsby’s demotion on or about April 12, 2010.” Settlement Agr., ¶ 1. In this agreement, Grigsby “knowingly and voluntarily agree[d] to release and forever discharge the Public Defender’s Office . . . from all lawsuits, claims, demands, charges, damages, fees, costs, and causes of action, known or unknown . . . against the Public Defender’s Office . . . arising out of or relating to the subject matter, except for the purpose of enforcing the terms of this Agreement.” *Id.* at ¶ 4. In consideration for this broad release, Cook County agreed to pay Grigsby a sum of money. *Id.* at ¶ 3. On May 22, 2013, Grigsby provided the

Commission staff with documentation showing that her counsel received this sum on April 29, 2011, and remitted it to her, less his fee, on May 10, 2011.

Discussion

The Human Rights Ordinance prohibits an employer from directly or indirectly discriminating “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.*” County Code, § 42-35(b)(1) (emphasis supplied). As used in the Human Rights Ordinance, “unlawful discrimination” means discrimination against a person on the basis of “race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, gender identity or housing status[.]” *Id.* at § 42-31.

Grigsby does not allege that the Public Defender’s Office told her that she was being demoted because of her race. As such, to state a claim for relief under Section 42-35(b)(1) of the Human Rights Ordinance, she must plead a *prima facie* case of employment discrimination: namely, (1) that she is a member of a protected class under the Human Rights Ordinance; (2) that she suffered an adverse employment action; (3) that she was qualified for the position she held and performing to her employer’s satisfaction; and (4) that similarly situated individuals who are not members of the same protected class were treated more favorably. *See Rush v. Ford Motor Co.*, 1995E013 (CCHRC Sept. 13, 2000). In this respect, Grigsby’s general averment her complaint – that an unnamed and unspecified class of “Respondent’s other non- African-American employees” were treated more favorably – is insufficient to plead the final element of a *prima facie* case of discrimination. A complainant must be able to identify at least one particular individual who complainant is alleging is similarly situated and is outside of complainant’s protected class. Differential treatment of a similarly situated co-worker is the very heart of an indirect claim for employment discrimination. Every at-will employee, even one who is meeting all of her employer’s expectations and is a member of a protected class, may nonetheless suffer an adverse employment action without recourse to this Commission. The sole exception to this rule is for an employer who is trying to give preferential treatment to persons outside of a protected class at the expense of members of that class.

However, for the purposes of rendering this order, the Commission presumes that Grigsby could have stated a claim for employment discrimination when she filed her complaint in 2010. The Commission is nonetheless unable to find substantial evidence of a violation of the Human Rights Ordinance now. Per the plain language of the Settlement Agreement, Grigsby has already released any claims under the Human Rights Ordinance that she may have had against the Public Defender arising from her 2010 demotion. Once a claim is released, it is extinguished and cannot form the basis a complaint before this Commission. Because the allegations in Grigsby’s complaint to this Commission pertain solely to a claim that she has already released, any investigation into that claim, no matter what its findings, cannot establish substantial evidence of a violation of the Human Rights Ordinance.

Conclusion

For the foregoing reasons, the Commission orders that complaint 2012E020 be **DISMISSED** for **LACK OF SUBSTANTIAL EVIDENCE** of a violation of the Human Rights Ordinance. In accordance with CCHR Pro. R. 480.100(A), either party may file a request for reconsideration with the Commission within 30 days of the date of this order.

October 28, 2013

By delegation:



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