

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

Doris ROBINSON, Complainant)	
)	
)	Case No. 2012E015
v.)	
)	
COMMUNITY AND ECONOMIC)	Entered: November 17, 2014
DEVELOPMENT ASSOCIATION OF)	
COOK COUNTY, INC., Respondent)	

ORDER

Complainant Doris Robinson (“Robinson”) filed the above-captioned matter on April 9, 2012, alleging that Respondent Community and Economic Development Association of Cook County, Inc. (“CEDA”) unlawfully discriminated against her on the basis of her race and her age and unlawfully retaliated against her for filing a grievance by terminating her as part of a mass layoff. After completing its investigation into the charges, the Cook County Commission on Human Rights (“Commission”) entered an order dismissing Robinson’s complaint for a lack of substantial evidence that CEDA’s actions violated sections 42-35(b)(1) or 42-41(a) of the Cook County Human Rights Ordinance (“Human Rights Ordinance”). *Robinson v. CEDA*, 2012E015 (CCHRC July 25, 2014). Robinson filed a motion to reconsider,¹ which the Commission now denies.

Discussion

Irrelevant Bases for Reconsideration

The core of Robinson’s request for reconsideration is the overarching allegation that CEDA provided the Commission with false information during the course of its investigation. Robinson’s Mot. to Reconsider (“Reconsider”), ¶ 1. This may be so, but the only specific information that Robinson alleges was false did not form the basis of the Commission’s order of dismissal in this matter.

For example, Robinson argues on reconsideration that CEDA falsely claimed that Robinson’s job performance was poor, *id.* at ¶ 6, and falsely claimed that it had resolved the

¹ The Commission’s procedural rules require that motions to reconsider be filed with the Commission within 30 days of the date of the order contested. CCHR Pro. R. 480.100(A). Here, Robinson is seeking reconsideration of a July 25, 2014 decision but only filed her motion with the Commission on August 29, 2014 – approximately 4 days late. The Commission, however, declines to treat Robinson’s motion as untimely because CEDA did not raise that issue in its responsive briefing on the motion. Moreover, the delay in Robinson’s motion was at least, in part, attributable to her *pro se* status and the failure to initially understand that she needed to make her request for reconsideration in a written submission.

grievance that Robinson filed after receiving a poor evaluation from a CEDA senior executive, *id.* at ¶ 2. CEDA denies both allegations. CEDA’s Response to Mot. to Reconsider (“Resp.”), pp. 2-3, 5. But the Commission never relied on either fact in reaching its decision to dismiss Robinson’s complaint. Instead, the Commission’s July 25, 2014 order specifically assumed that there was sufficient evidence to support Robinson’s claim that she was meeting her employer’s reasonable expectations with regards to her job performance. *Robinson*, 2012E015 at *3-4 (“The Commission’s investigation easily found the first three elements of a *prima facie* case of discrimination. . . . CEDA concedes that its termination of Robinson was not motivated by her documented performance issues.”). Similarly, Robinson’s retaliation claim fell, not because the Commission believed that CEDA had resolved her grievance, but because Robinson could not provide any evidence connecting the filing of her grievance (whatever its resolution) to her termination. *Id.* at *5 (“It is simply implausible on the facts made available to the Commission during this investigation that CEDA trumped up a mass layoff to retaliate against Robinson for her complaint six months earlier.”).²

Likewise misplaced is Robinson’s assertion that CEDA falsely claimed that two (instead of one) employees of color terminated during the mass layoff were rehired. Reconsider, ¶ 10 (“CEDA stated that two CDA Directors of color was [sic] rehired that had reapplied under the restructure[,] one being Patricia Vance. . . . Patricia Vance was not rehired.”). In dismissing Robinson’s unlawful discrimination claim for failing to provide substantial evidence that similarly situated employees outside of Robinson’s protected classes were treated more favorably, the Commission focused on the absence of similarly situated *white* employees. *Robinson*, 2012E015 at *4 (“Robinson identified two white CEDA employees who were not terminated. . . . Yet the Commission’s investigation finds that these employees were not similarly situated because their responsibilities extended to CEDA projects outside of the CSBG program and funding.”). To the extent that the Commission noted that any CEDA employees were rehired after the mass layoff, it focused on only one African American employee. *Id.* at *4 (“During the course of this investigation, CEDA provided evidence that one of the African American CDAs, who like Robinson was over the age of 50, applied for and received a promotion to Regional Manager during the restructuring.”).

Reconsideration of CEDA’s Proffered Non-Discriminatory Reason for Terminating Robinson

More on point, Robinson attacks CEDA’s proffered nondiscriminatory reason for her termination: the mass layoff associated with the restructuring of CEDA’s CSBG-funded programming. Robinson observes that CEDA’s CSBG grant funding actually increased in 2012, rather than decreased by \$3.6 million as CEDA anticipated on October 28, 2011. *See* Reconsider, ¶ 4. CEDA does not contend that this allegation is false. *See* Resp., p. 3. But again the absence of a financial necessity to restructure the CSBG-funded programming at CEDA does not render CEDA’s decision to do so pretextual. CEDA’s mere anticipation of the need to save funding is certainly sufficient but so too is the reasoned business decision that it is more efficient to manage programming at a regional – rather than municipal – level irrespective of funding levels. That CEDA ultimately obtained funding increases for CSBG programming does not render the decision to switch to a regional manager structure discriminatory.

² The content of Robinson’s grievance (Reconsider, ¶ 3) and the procedural rules governing the timing of CEDA’s response to that grievance (*id.* at ¶ 9) were also irrelevant to the Commission’s initial determination.

Robinson's argument that she was out of the office when CEDA informed its CDAs that they had to apply for regional manager positions or see their current positions eliminated in the restructuring of CSBG-funded programming is similarly not a grounds for reconsideration. Reconsider, ¶ 5. That Robinson was on leave excuses her absence from the November 9, 2011 meeting at which the restructuring plan was explained, but it does not excuse her failure to respond to the follow up emails and memos explaining the consequences of restructuring and how to reapply for a regional manager position. *See Robinson*, 2012E015 at *2-3. Whatever Robinson's reasons for not applying for the position that would have allowed her to continue to be a CEDA employee, her failure to do so does not render CEDA's entire restructuring of its CSBG-funded programming, which affected a number of employees in addition to Robinson, a pretext for unlawful discrimination.

Insufficient Bases for Reconsideration

Finally, Robinson's request for reconsideration asserts without any additional supporting evidence or detail first that "CEDA has a history of terminating employees for speaking out and reporting to outside agencies" and second that she "feel[s] that the Federal FMLA laws were violated in my case." Reconsider, ¶¶ 7-8. The Commission's procedural rules state that "[a]ny party requesting review pursuant to Section 480.100 must *state with specificity* the reason(s) supporting the Request for Reconsideration, such as relevant evidence which is newly discovered and not available at the time of the original determination, or the presentation of new, legal precedent not available at the time of the original determination, or the Commission's misapprehension or misapplication of law." CCHR Pro. R. 480.105 (emphasis supplied).

The Commission dedicated over two years of public resources to investigating the claims that Robinson articulated in her original complaint. The Commission will not now hear completely unsupported arguments on reconsideration. *See, e.g., Thomas v. Cook County Treasurer's Office*, 1995E034 (CCHRC June 26, 1996); *McBride v. Cermak Health Services*, 2003E045 (CCHRC Dec. 13, 2006). Robinson does not name a single employee who was the victim of CEDA's allegedly long history of retaliation. She does not provide the date of a single occurrence. She does not give even one illustrative detail that might form the basis of a deeper examination by the Commission. Similarly, Robinson tells the Commission that a violation of federal law has occurred, but gives the Commission absolutely no starting point to evaluate the veracity of the claim. A motion to reconsider highlights specific evidence in the record or provides specific evidence to supplement the record so that the Commission can reach a different legal conclusion about the allegations in the complaint. A motion for reconsideration is not the place for vague hand waiving in the direction of additional wrongdoing. It is quite literally too little, too late.

Conclusion

For the foregoing reasons, the Commission DENIES Robinson's Motion to Reconsider the dismissal of complaint 2012E015.

November 17, 2014

By delegation:

A handwritten signature in black ink, appearing to read "R. Hakim", written in a cursive style.

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