

COOK COUNTY COMMISSION ON HUMAN RIGHTS

69 West Washington, Suite 3040
Chicago, Illinois 60602

Terra J. SINKEVICIUS, Complainant)	Case No. 2008E011
v.)	Entered: December 6, 2013
DEPAUL UNIVERSITY, Respondent)	

ORDER

Complainant Terra J. Sinkevicius (“Sinkevicius”) brought this action on February 20, 2008, against her former employer, Respondent DePaul University (“DePaul”), for unlawful retaliation in violation of Section 42-41(a) of the Cook County Code of Ordinances (“County Code”). Sinkevicius alleges that in February 2008, DePaul revoked a flexible work schedule it had granted her a year prior because Sinkevicius filed a complaint against DePaul with the U.S. Equal Opportunity Commission (“EEOC”). Having completed its investigation, this Commission dismisses Sinkevicius’s complaint because the facts found by its investigation do not show substantial evidence of a violation of the Cook County Human Rights Ordinance (“Human Rights Ordinance”).

Background

The Commission’s investigation finds that at the time of her complaint, Sinkevicius worked in DePaul’s library. Prior to November 2007, this job required Sinkevicius to perform two different job functions for two different managers. In one role, Sinkevicius reported to a supervisor who needed her to be present at particular hours in a particular location to maintain coverage of the front desk of the library during the day. In the other role, Sinkevicius reported to a different supervisor who had more operational flexibility in where and when Sinkevicius worked.

In June 2007, Sinkevicius filed a complaint against DePaul with the EEOC. The June 2007 EEOC complaint alleged that DePaul retaliated against Sinkevicius for having previously filed an internal complaint of harassment with DePaul’s Office of Institutional Diversity (“OID”).

Although the parties disagree about whether Sinkevicius ever formally obtained a flexible work schedule, the Commission’s investigation finds that beginning in the late summer/early fall of 2007, Sinkevicius’s supervisors allowed her to work early, stay late and adjust her lunch hour in order to accommodate her religious practices and/or parenting needs. This arrangement appeared to be achievable because Sinkevicius could cover the front desk on days when she was available during her regular hours and could work with her other supervisor

on days when she needed to move her hours around.

Sinkevicius's work for two different supervisors, however, caused confusion, and, in November 2007, DePaul decided to reassign her to just front desk coverage. Nonetheless, DePaul set a schedule for Sinkevicius that allowed her to come in late on some days and pull extra hours on other days to make up for the time. This schedule resulted in Sinkevicius occasionally overlapping with the librarian who provided coverage of the front desk in the evenings.

On December 4, 2007, while working late per her flexible schedule, an altercation ensued between Sinkevicius and the evening librarian. The altercation was so severe that campus police were called and had to separate the two women. DePaul met with the employees involved and eventually determined that the relationship between Sinkevicius and the evening front desk librarian was so damaged that they could not work together.

Rather than terminate either employee, in February 2008, DePaul stopped allowing Sinkevicius to stay late when the evening librarian was on duty. DePaul offered Sinkevicius a choice of one of two set schedules to prevent overlaps. Sinkevicius chose one and then filed this action with the Commission, positing that the revocation of her flexible work schedule was in retaliation for her November 2007 complaint to the EEOC.

Discussion

The Human Rights Ordinance prohibits retaliation against any person "because that person in good faith has opposed that which he or she reasonably believed to be unlawful discrimination, sexual harassment, or other violation of this Ordinance or has made a complaint, testified, assisted or participated in an investigation, proceeding, or hearing under this Ordinance." County Code, ¶ 42-41(a). In order to prevail on a claim of unlawful retaliation under the Human Rights Ordinance, a complainant must show: (1) that she sought to exercise a right protected by the Ordinance; (2) that she suffered adverse treatment that is reasonably likely to deter the complainant or others from engaging in protected activity and (3) that there is a causal connection between the protected activity and the adverse employment action. *Washington v. Cook County*, 2005E065, *4 (CCHRC Sept. 26, 2013). The Commission must dismiss a claim in its entirety where there is a lack of substantial evidence to support any element. *Id.*

Here, even if the Commission presumes that there is substantial evidence that Sinkevicius's claim could meet the first two elements,¹ the Commission's investigation demonstrates that the claim plainly fails with respect to the third. To have a cause of action, the complainant must be the subject of adverse treatment *because* she engaged in protected activity under the Human Rights Ordinance. *Id.* Sinkevicius has failed to show a causal connection between her filing of a complaint with the EEOC in June 2007 and an adverse employment

¹ The Commission notes that DePaul's offer to Sinkevicius of a choice between two schedules in February 2008 somewhat undercuts Sinkevicius's assertion that she suffered adverse treatment. The Commission will not ordinarily presume that a different accommodation is the same as no accommodation at all.

action approximately eight months later.

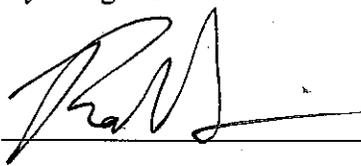
DePaul offers a non-discriminatory explanation for requiring Sinkevicius to work set hours, *i.e.* the December 2007 fight between Sinkevicius and her coworker so severe that the police were called. Sinkevicius has not presented, and the Commission's investigation has not found, substantial evidence that this explanation is pretextual.

Conclusion

For the foregoing reasons, the Commission orders that complaint 2008E011 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.

December 6, 2013

By delegation:

A handwritten signature in black ink, appearing to read 'Ranjit Hakim', is written over a horizontal line.

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