2014 IL App (1st) 133069-U

No. 1-13-3069

December 30, 2014

THIRD DIVISION

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

DOREEN FORD, Petitioner-Appellant, v. EXECUTIVE DIRECTOR, ILLINOIS HUMAN RIGHTS COMMISSION & ILLINOIS HUMAN RIGHTS COMMISSION, HANSON PETERS NYE, CHIEF LEGAL COUNSEL, ILLINOIS DEPARTMENT OF HUMAN RIGHTS, Respondents-Appellees.	) Petition for Review of an Order of the) Illinois Human Rights Commission)))))) 2005 CF 0212))))))	

JUSTICE NEVILLE delivered the judgment of the court.
Justices Pierce and Liu concurred in the judgment.

O R D E R

¶ 1 *Held*: Where the employee failed to present evidence which established that the employer illegally retaliated against her, the Commission's order dismissing the employee's complaint with prejudice was not against the manifest weight of the evidence.

¶ 2 The Illinois Human Rights Department (Department) filed a discrimination complaint on behalf of Doreen Ford (Ford) against the law firm of Hanson Peters Nye (Hanson Peters).

After hearing all of the evidence, the administrative law judge (ALJ) found that Ford had failed to establish a *prima facie* case of illegal retaliation and issued a recommended order that Ford's complaint be dismissed with prejudice. The Illinois Human Rights Commission (Commission) adopted the order and dismissed Ford's complaint.

¶ 3 We find that Ford failed to present evidence which established that Hanson Peters illegally retaliated against her. Therefore, we hold that the Commission's order dismissing Ford's complaint with prejudice was not against the manifest weight of the evidence. Accordingly, we affirm the Commission's order dismissing Ford's complaint.

¶ 4 BACKGROUND

¶ 5 RETALIATION COMPLAINT

¶ 6 On January 12, 2007, the Department filed a complaint on behalf of Ford with the Commission and on February 8, 2007, Ford, a *pro se* complainant, filed an amended five-count complaint. In count I, Doreen Ford alleged that Victor Peters' September 3, 2004 written warning was in retaliation for Ford filing a discrimination charge with the Department on July 27, 2004. In count II, Ford alleged that her discharge on November 15, 2004, was within a period of time after she filed her July 27, 2004 discrimination charge with the Department and raised an inference of a retaliatory motive. In count III, Ford alleged that from September 14, 2004 until November 15, 2004, Hanson Peters subjected her to unequal terms and conditions of employment in that (a) she was assigned more attorneys than any other secretary; (b) she remained responsible for the daily docket duties when the assignment should have gone to Nancy Tordai's secretary; and (c) she was overwhelmed with rush jobs from attorneys without any assistance, within a period of time after her discrimination charge

which raised an inference of a retaliatory motive. In count IV, Ford alleged that Hanson Peters subjected her to unequal terms and conditions of her employment after she opposed unlawful discrimination in her written response on September 3, 2004, to Peters' warning on September 3, 2004. In count V, Ford alleged that she was discharged in retaliation for opposing unlawful discrimination in her September 3, 2004 response to Peters' September 3, 2004 warning memorandum.

¶ 7 ADMINISTRATIVE HEARING

¶ 8 Ford's Employment with Hanson Peters

¶ 9 In June 2009, an ALJ conducted a hearing and made the following factual findings. On July 23, 2001, the law firm of Hanson Peters hired Ford as a legal secretary to replace Velda McFarlane who was promoted to office manager. The firm's partners were Victor Peters, Keith Hanson, Tordai and David Wilford. McFarlane was responsible for supervising the secretaries and also trained Ford on the firm's daily docket system. Initially, Ford was assigned to attorneys Tordai, Kristi Nolley, and paralegal Janice Morrison. About two weeks after being hired, Ford was assigned two additional attorneys, Anne Lewis and Joanne Snow. About ten months later, Snow was re-assigned to another secretary and was no longer working with Ford. Ford told McFarlane during those ten months that she felt her workload was too much. In 2003, Ford was assigned to provide litigation support services to attorneys Tordai, Lewis, and Nolley as well as paralegal Shawn Krawczyk. Lewis worked as a part-time attorney.

¶ 8 On Wednesday, January 21, 2004, Ford sent a message by electronic mail (e-mail) to Hanson Peters informing the firm that she had slipped on ice during lunch, that she went to

the emergency room, that she may need surgery, and that she would return to work on Monday.

¶ 9 On February 2, 2004, McFarlane prepared a memorandum for Ford's personnel file which stated that Ford, McFarlane and Tordai met on January 28, 2004, and discussed some concerns regarding Ford's work, which included Ford's "hesitance to take direction without argument" and "making herself available to her assigned attorneys/paralegal to do and/or complete task[s] that were within the realm of her job duties." The memorandum stated that Ford was informed of complaints from attorneys and paralegals as well as other support staff who were asked to do Ford's work when she was not available.

¶ 10 Ford sent a letter on February 2, 2004, to Peters, Hanson, Tordai and Natasha Markakis-Nye with a copy to McFarlane, informing them that she had been experiencing symptoms of anxiety and depression since her January 21, 2004 accident, that she had been previously diagnosed with anxiety and depression, that she was in the process of scheduling treatment sessions that would likely occur a couple of times a month during work hours, and that she was requesting permission to take momentary pauses from her work throughout the day as needed.

¶ 11 On February 20, 2004, Ford sent a memorandum to Tordai, Nolley, Lewis and Krawczyk, with a copy to McFarlane, entitled "Handling of Top Priority Rush Job Conflicts." The memorandum informed Ford's superiors of a procedure they should follow when assigning priority rush jobs, stating that the secretary "should not be put in the middle of any priority conflicts" and that they should consult McFarlane or the other attorneys to resolve conflicts. Ford also informed them that while she was working on a priority rush job, she

would not be able to perform any faxing or photocopying until she had completed the current rush job.

¶ 12 At the time Ford sent the February 20, 2004 memorandum, Hanson Peters already had a procedure in place for its legal secretaries when they felt overloaded with work and needed help prioritizing. Hanson Peters required all of the legal secretaries to notify McFarlane of the problem and McFarlane would re-assign the work or make the appropriate decisions to address the situation.

¶ 13 In early 2004, Nolley left Hanson Peters and the firm hired Ross Smyk to take her place. In May 2004, Ford was assigned to attorneys Tordai, Lewis, and Smyk and to paralegal Krawczyk. Ford requested that she not be assigned to Smyk and that she be assigned a non-litigation attorney because it would cause her too much stress and anxiety to be assigned to another litigation attorney.

¶ 14 On May 25, 2004, Peters sent Ford an e-mail informing her that she was assigned to Smyk and that she would remain as the secretary for Tordai, Lewis, and Krawczyk. Peters e-mail further stated that, while he did not anticipate Ford would have any problems with performing conflicting assignments, if she did, she should address the problem with Tordai. If Tordai was unavailable, then she should consult Elizabeth Caprini, McFarlane and Peters, in that order. Peters set up this system specifically for Ford as a way to address Ford's concerns that conflicting time-sensitive projects may cause her anxiety and depression.

¶ 15 On May 26, 2004, Ford responded in writing to Peter's May 25, 2004 e-mail stating that she wanted to clarify her reasons for requesting a non-litigation attorney. She referred to her February 2, 2004, memorandum and reiterated that she was receiving treatment for

anxiety and depression. Ford requested that she be assigned a non-litigation attorney, instead, as an accommodation, because having three litigation attorneys would be too stressful.

¶ 16 Peters responded to Ford's May 26, 2004, correspondence via e-mail on May 27, 2004, and reiterated that Hanson Peters had set up a system for Ford when addressing conflicting work assignments. Peters expressed his belief that Ford's attorney assignments best utilized her litigation skills and that he would closely monitor Ford's assignments to ensure that her workload remained manageable. Peters also stated that further adjustments would be made in the future if necessary. In addressing Ford's health concerns, Peters asked Ford to obtain a letter from her doctor delineating the limitations or restrictions on her ability to work.

¶ 17 Ford gave Peters a letter dated June 16, 2004, from Rachelle Gold, a clinical psychologist at Lake-Cook Behavioral Health Resources. Dr. Gold wrote that she had been treating Ford since February 2004 for depression and anxiety, that Ford had been complaining of increased stress as a result of a third litigation attorney being added to her work responsibilities, and advised that it would benefit Ford's mental health if she was not assigned a litigation attorney.

¶ 18 On July 27, 2004, Ford filed a charge of discrimination against Hanson Peters with the Illinois Department of Human Rights.[1] Hanson Peters received a copy of the charge around August 11, 2004.

¶ 19 On August 30, 2004, Tordai spoke with Ford about her work product on a particular assignment. During that meeting, Tordai believed that Ford had behaved in an inappropriate

[1] The charge was amended on September 13, 2004, December 15, 2004, January 7, 2005, January 25, 2005 and February 9, 2005.

manner by raising her voice at Tordai. On September 3, 2004, Peters wrote Ford a memorandum, sending a copy to "Doreen Ford Personnel File," which stated, "[d]uring a discussion with Nancy Tordai in her office on August 30, 2004, you raised your voice to Nancy and acted in a hostile and unprofessional manner. *** If an outburst of this nature happens again you will be subject to termination." Tordai repeatedly asked for a new secretary over the course of 2004 because she could no longer work with Ford.

¶ 20 On September 3, 2004, Ford responded to Peters' September 3, 2004 memorandum denying that she spoke to Tordai in a hostile and unprofessional manner. She also added, "it is obvious the firm is retaliating against me for my filing a charge with the Illinois Department of Human Rights ***."

¶ 21 On September, 14, 2004, Hanson Peters reassigned secretaries and attorneys to address firm turnover, to accommodate Tordai's request to work with a secretary other than Ford, and to make Ford's assignment as simple as possible while allowing her to be a productive firm member. Ford was assigned four attorneys, Lewis, who worked part-time, and Renne Robak, Smyk and Farhan Younus. Ford continued to be responsible for the daily docket. Five other secretaries were each assigned three attorneys, and one secretary was assigned one attorney. Gennette Tracy was assigned as Tordai's secretary.

¶ 22 On November 15, 2004, Ford issued a memorandum to the attorneys she was assigned to at the time, Lewis, Robak, Younus and Zhanna Rondel, with a copy to McFarlane entitled "Rush Jobs." Ford complained that she had been given rush jobs by all of her assigned attorneys on Friday, November 12, 2014, and advised the attorneys that if she is working on a rush job and another attorney assigns her a rush job, that it is up to the attorneys

to meet with one another and decide whose rush job has priority or they "can see Velda [McFarlane]." While the memorandum was not addressed to Peters, a copy of Ford's November 15, 2004, memorandum was bought to Peters' attention. That same day Peters discharged Ford.

¶ 23 Witness Testimony

¶ 24 Witnesses testified at the hearing and presented the following testimony. Ford testified that: (a) she met with McFarlane and Tordai on January 28, 2004, to complain about Tordai giving her too much work; (b) McFarlane approved both Ford's February 20, 2004 and November 15, 2004 memorandums to the attorneys she worked for regarding rush jobs; (c) she never yelled or behaved unprofessionally with Tordai; (d) she asked McFarlane for help on November 12, 2004 because McFarlane was the only one available, but Ford received no assistance with the rush jobs; (e) Tordai kept her busy with rush jobs from the beginning of Ford's employment at Hanson Peters; (f) she received conflicting rush jobs before and after she filed her discrimination charge; and (g) although her job responsibilities changed after September 14, 2004, when she was reassigned to four attorneys, her tasks remained the same.

¶ 25 Peters testified that: (a) he implemented the special system where Ford would follow a chain of command to ascertain her priorities because of Ford's concerns that her conflicting priorities would have negative effects on her anxiety and depression; (b) the program was not put in place for any other secretary; (c) Ford was originally required to talk to McFarlane about conflicting assignments; (d) Ford was responsible for the docket, but not because she was Tordai's secretary, but instead, because she was simply selected; (e) Tracy was assigned

to the docket after Ford was discharged, and Tracy continued to perform that responsibility when she was no longer Tordai's secretary; and (f) secretaries who were not Tordai's secretary were assigned to handle the docket before and after Ford was discharged. Peters also testified that docket duty was very simple, taking about five minutes to complete.

¶ 26 Peters further testified that after making the decision with Hanson to terminate Ford, he never provided any specifics as to why he was terminating her; however, at the hearing he explained the reasons: her failure to get along with any of her assigned attorneys; her difficulty accepting responsibility and assignments; her inability to follow firm procedures and rules; her screaming at Tordai; her issuing memoranda instructing attorneys on what to do; her refusal to answer an attorney's telephone; her telling another attorney she did not have to complete that attorney's filing; and the criticism she received in her reviews.

¶ 27 Tordai testified that: (a) Ford's behavior changed in early 2003, and she offered excuses for her inability to be available or for having limited time to do work; (b) McFarlane and Tordai met with Ford on January 28, 2004, because Ford was becoming increasingly argumentative and combative about her work; (c) Ford's February 20, 2004 memorandum was not consistent with firm policy; (d) Ford was loud and threatening in Tordai's office on August 30, 2004; and (e) Ford never asked for help on August 15, 2004

¶ 28 McFarlane testified that: (a) in the beginning Ford performed well, but her work began to change in mid 2003; (b) attorneys began to complain about her hesitance to accept work, her negative attitude, and her failure to complete work on time; (c) she never encouraged Ford to send either her February 20, 2004 or November 15, 2004 memoranda on rush jobs and neither were consistent with firm policy; (d) Ford often overstepped her bounds,

and; (e) Ford never asked her for assistance on November 12, 2004 or any time after Peters implemented a special policy to help Ford manage work conflicts.

¶ 29 Lewis testified that: (a) she never filed a formal complaint about Ford's performance deficiencies, but she had discussions with Ford about getting her work done; (b) when Ford started, she was not argumentative, but rather, hard-working and diligent; (c) Ford's performance changed in late 2003 or 2004; she was less eager, had difficulty completing her work and usually said she was too busy.

¶ 30 Lewis also testified that: (a) Ford's February 20, 2004 memorandum regarding rush jobs was contrary to the firm's policy which required secretaries to discuss problems with McFarlane, and (b) although Ford was assigned four attorneys after September 14, 2004, more than any other secretary, she had the least demands on her time.

¶ 31 Wilford testified that he had witnessed the incident involving Ford and Tordai on August 30, 2004, and he was concerned for Tordai's safety. Robak testified that he did not give Ford a rush job on November 12, 2004 and that her instant reaction when assigned work was that she did not have time to complete it. Julianne Nerry testified that Sonya Lockett was one of her secretaries and that she only had problems with her work performance, not her attitude or her willingness to do the work. Alicia Jaeger Smith testified that Lockett was also her secretary and that she had no problems with her attitude, just her work performance. Robert Fish, a partner, also testified that Lockett was his secretary and that he had problems with her work performance, not with her being disrespectful or unprofessional.

¶ 32 Illinois Human Rights Commission's Decision

¶ 33 After weighing all of the evidence, on May 10, 2010, the ALJ concluded that Ford

failed to establish that Hanson Peters illegally retaliated against her and issued a decision recommending that Ford's complaint be dismissed with prejudice. Ford filed exceptions to the decision, and on May 19, 2011, the Commission served its order, adopting the recommended order of the ALJ. Ford filed a petition for rehearing on June 7, 2011. The Commission denied the petition on September 19, 2013. Ford filed a petition for review with this Court on October 3, 2013.

¶ 34 ANALYSIS

¶ 35 Ford argues that the ALJ's recommended order and decision was against the manifest weight of the evidence and should be reversed because all of the evidence that would establish that Hanson Peters retaliated against Ford was not considered. We disagree.

¶ 36 The Administrative Review Law provides that the findings and conclusions of the administrative agency on questions of fact are held to be *prima facie* true and correct. *Marconi v. Chi. Heights police Pension Bd.*, 225 Ill. 2d 497, 534 (2006); 735 ILCS 5/3-110 (West 2012). Unless the Commission's findings of fact are against the manifest weight of the evidence, the findings of fact must be sustained. 775 ILCS 5/8-111(2) (West 2012). A factual finding is against the manifest weight of the evidence when the opposite conclusion is clearly evident (*Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill. 2d 200, 210 (2008)), or when the findings appear to be unreasonable, arbitrary, or not based on the evidence. *York v. Rush-Presbyterian-St. Lukes' Medical Center*, 222 Ill. 2d 147, 179 (2006). Therefore, a finding of fact is against the manifest weight of the evidence when, after viewing the evidence in the light most favorable to the determination at issue, no rational trier of fact could have made the same determination. *Price v. Industrial Comm'n*, 278 Ill.

App. 3d 848, 852-53 (1996). The fact that a reviewing court might have reached a different conclusion based on the evidence, does not justify reversal. *Chicago Investment Corp. v. Dollins*, 107 Ill. 2d 120, 129 (1985). It is not for the reviewing court to reweigh the evidence or substitute its judgment for that of the trier of fact. *Cinkus*, 228 Ill. 2d at 210. If the record contains evidence to support the agency's decision, it should be affirmed. *Abrahamson, v. Illinois Department of Professional Regulation*, 153 Ill. 2d 76, 88 (1992). Therefore, reviewing courts are limited to determining whether the administrative agency's factual findings are against the manifest weight of the evidence. *City of Belvidere v. Illinois State Labor Relations Board*, 181 Ill. 2d 191, 204 (1998).

¶ 37 Ford bears the burden of proving discrimination by a preponderance of the evidence pursuant to section 8A-102(I) of the Illinois Human Rights Act. 775 ILCS 5/8A-102 (I). Ford may prove discrimination through the indirect burden-shifting method by establishing a *prima facie* case of unlawful discrimination pursuant to the three-part analysis set out in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 793 (1973) and adopted by the Illinois Supreme Court in *Zaderaka v. Illinois Human Rights Comm'n*, 131 Ill. 2d 172, 178-79 (1989). All of Ford's five counts allege that Hanson Peters subjected her to illegal retaliation pursuant to Section 6-101(A) of the Act, therefore, the three-step analysis for retaliation cases applies. See *Stone v. Department of Human Rights*, 299 Ill. App. 3d 306, 316 (1998); *Maye v. Human Rights Comm'n*, 224 Ill. App. 3d 353, 360 (1991). To establish a *prima facie* case of retaliation under the Act, Ford must show that: (1) she engaged in a protected activity; (2) Hanson Peters committed an adverse act against her; and (3) a causal nexus existed between the protected activity and the adverse act. *Stone v. Dep't of Human Rights*, 299 Ill. App. 3d at

316; *Maye*, 224 Ill. App. 3d at 360. Once Ford has demonstrated a *prima facie* case, Hanson Peters must "must articulate, *not prove* [citation], a legitimate, nondiscriminatory reason for its decision." *Zaderaka*, 131 Ill. 2d at 179. (Emphasis added.) Then for Ford to prevail, she must prove that Hanson Peters' articulated reason "was not its true reason, but was instead a pretext for unlawful discrimination." *Zaderaka*, 131 Ill. 2d at 179.

¶ 38 Count I

¶ 39 Ford alleged that the written warning she received from Peters on September 3, 2004, which stated that if she behaved in an unprofessional manner again she would be "subject to termination," constituted an adverse employment action. "A materially adverse employment action is 'one that significantly alters the terms and conditions of the employee's job' or causes a material change in the employment relationship." *Young v. Illinois Human Rights Comm'n*, 2012 IL App (1st) 112204, ¶ 35. "Adverse employment actions include things such as *** denial of promotion, reassignment to a position with significantly different job responsibilities, or an action that causes a substantial change in benefits." *Owens v. Department of Human Rights*, 403 Ill. App. 3d 899, 919 (2010). Courts have continuously held that oral and written reprimands alone do not change the terms and conditions of an employee's job to such an extent as to constitute an adverse employment action for purposes of establishing a *prima facie* case of employment discrimination. *Owens*, 403 Ill. App. 3d at 920. The Commission found that the warning alone was not an adverse employment action. We agree with the Commission that Peters' September 3, 2004 warning was not an adverse employment action. Therefore, we hold that the decision of the Commission, with respect to count I, was not against the manifest weight of the evidence. *City of Belvidere*, 181 Ill. 2d at

204.

¶ 40 Count II

¶ 41 Ford also argues that Hanson Peters retaliated against her for filing the July 27, 2004, discrimination charge, by terminating her employment on November 15, 2014. Hanson Peters' testimony, along with the testimony of other Hanson Peters' employees, established that the reasons for Ford's termination were her failure to get along with her assigned attorneys, her difficulty in accepting responsibility and assignments, her inability to follow firm procedures and rules, her issuance of instructions telling attorney what to do, and her screaming at Tordai, which began in late 2003 or early 2004. The aforementioned establishes that Ford was not terminated for filing a discrimination charge on July 27, 2004. Ford argues that the Commission's order disregarded the following evidence: (a) that Hanson Peters' reasons for discharging her were shifting and inconsistent; (b) that her November 15, 2004 memorandum was consistent with firm policy; (c) that she complied with the "special policy" for addressing work conflicts; (d) that other secretaries with poor performance were not discharged; (e) that Hanson Peters conducted no investigation before terminating Ford; and (f) that the Commission erred in its credibility determination of Mcfarlane and Tordai.

¶ 42 Case law is clear that if the record contains *any evidence* to support the Commission's decision, the decision should be upheld. *Abrahamson*, 153 Ill. 2d at 88; *Bodenstab v. County of Cook*, 569 F.3d 651, 662 (7th Cir. 2009). We find the evidence in the record supports the Commission's decision that Ford's behavior caused her termination, namely Peters' testimony, corroborated by Tordai, McFarlane, and Lewis, that Ford's willingness to complete her work declined and her attitude grew more unprofessional and combative in late 2003 and early

2004, before Ford filed the July 27, 2014, discrimination charge. Therefore, we hold that the Commission's factual findings, with respect to Count II, were not against the manifest weight of the evidence. *City of Belvidere*, 181 Ill. 2d at 204.

¶ 43 Counts III and IV

¶ 44 Next, Ford alleged that in retaliation for filing her July 27, 2004 discrimination charge (count III), and in retaliation for her opposing unlawful discrimination in her response to Peters' September 3, 2004 memorandum (count IV), Hanson Peters subjected her to unequal terms and conditions of employment by: (a) assigning her four attorneys, (b) keeping her responsible for the daily docket duties when she was no longer Tordai's secretary, and (c) overwhelming her with rush jobs from attorneys without any assistance.

¶ 45 The Commission found that Ford did not offer any evidence to establish that being assigned four attorneys and being responsible for the daily docket was an adverse employment action. The Commission also found that there was no causal connection between her July 27, 2004 discrimination claim and her allegation that she was overwhelmed with rush jobs from September 14, 2004 until November 15, 2004. Again, "a materially adverse employment action is 'one that significantly alters the terms and conditions of the employee's job' or causes a material change in the employment relationship." *Young*, 2012 IL App (1st) 112204, at ¶ 35. Examples of adverse employment actions include things such as "denial of promotion, reassignment to a position with significantly different job responsibilities, or an action that causes a substantial change in benefits." *Owens*, 403 Ill. App. 3d at 919. "However, 'not everything that makes an employee unhappy is an actionable adverse action. Otherwise, minor and even trivial employment actions * * * would form the basis of a discrimination

suit.' " *Owens*, 403 Ill. App. 3d at 919-20.

¶ 46 The Commission found, and we see no evidence in the record to rebut the finding, that Ford offered no evidence which established that her work load significantly increased or that there was a significant difference in her secretarial responsibilities. Although Ford alleges that being responsible for the daily docket once she was no longer Tordai's secretary was an adverse action, the record does not support her position. The Commission concluded that Ford failed to present evidence which established that Hanson Peters decision not to remove Ford from daily docket duty when she was no longer working for Tordai was an adverse action. After reviewing the record, we find that there is sufficient evidence to support the Commission's conclusion that secretaries (like Tracy), before and after Ford was terminated, were assigned to daily docket duty even when they were not Tordai's secretary. Ford was not denied a promotion, not reassigned to a position with different job responsibilities, nor was she denied benefits. Therefore, Ford being responsible for the daily docket duty after she was no longer Tordai's secretary was not evidence of an adverse action. Accordingly, we hold that the Commission's decision that Hanson Peters did not take adverse action against Ford was not against the manifest weight of the evidence. *City of Belvidere*, 181 Ill. 2d at 204.

¶ 47 Lastly, the Commission rejected Ford's position that there was a causal nexus between her July 27, 2004 discrimination charge and her response to Peters' September 3, 2004 memorandum that resulted in Hanson Peters overwhelming Ford with rush jobs. The Commission found that the record established that Ford complained of being overwhelmed with rush jobs as early as February 20, 2004, months before her July 2004 discrimination

charge and her September 2004 response to Peters' memorandum. Illinois courts have held that if "the employer chooses to come forward with a valid, nonpretextual basis for discharging its employees and *the trier of fact believes it*, the causation element required for proving a retaliatory discharge claim is not met." *Michael v. Precision Alliance Group, LLC*, 2014 IL 117376, ¶ 36 (Emphasis in original). We find that the evidence in the record established that Hanson Peters did not retaliate against Ford for filing a discrimination charge on July 27, 2004, or for responding to Peters' September 3, 2004 memorandum, nor did Hanson Peters subject Ford to unequal conditions of employment. Therefore, we hold that the decision of the Commission, with respect to counts III and IV, was not against the manifest weight of the evidence. *City of Belvidere*, 181 Ill. 2d at 204.

¶ 48 Count V

¶ 49 Finally, Ford alleged that Hanson Peters retaliated against her for opposing unlawful discrimination in her response to Peters' September 2004 memorandum. She focuses on the short time between her response to the memorandum (September 3, 2004) and her discharge on November 15, 2004 as evidence of a causal nexus which establishes pretext. Hanson Peters' attorneys and secretaries testified that Ford's failure to get along with assigned attorneys, her failure to accept responsibility and assignments, and her failure to follow the firms' procedures and rules, which was documented in her employee file and corroborated by Tordai and other attorneys, were the true reasons for Ford's termination. Ford has the burden of proving Hanson Peters' reasons were not true or pretextual. The Illinois Supreme Court has held if "the employer chooses to come forward with a valid, nonpretextual basis for discharging its employees and *the trier of fact believes it*, the causation element required for

proving a retaliatory discharge claim is not met." *Michael*, 2014 IL 117376, ¶ 36. (Emphasis in original). The Commission believed Hanson Peters' reason for discharging Ford. After reviewing the record, we find that Ford failed to present any evidence which established that Hanson Peters' reasons for Ford's discharge were not true. Therefore, we hold that the Commission's order was not against the manifest weight of the evidence. *City of Belvidere*, 181 Ill. 2d at 204.

¶ 50 CONCLUSION

¶ 51 We find that Ford failed to present evidence which established that Hanson Peters illegally retaliated against her. Therefore, we hold that the Commission's order dismissing Ford's complaint with prejudice was not against the manifest weight of the evidence. Accordingly, we affirm the Commission's order dismissing Ford's complaint.

¶ 52 Affirmed.