

**STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
LOCAL PANEL**

Steffanie Toney,	)	
	)	
Charging Party,	)	
	)	
and	)	Case No. L-CB-23-014
	)	
International Brotherhood of Electrical Workers,	)	
Local 21,	)	
	)	
Respondent.	)	

**DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD  
LOCAL PANEL**

On March 1, 2023, Executive Director Kimberly Stevens dismissed a charge filed by Charging Party Steffanie Toney on December 14, 2022. Charging Party is employed by the City of Chicago Office of Emergency Management (Employer) as a Police Communications Operator II and a member of a bargaining unit represented by Respondent International Brotherhood of Electrical Workers, Local 21 (Union). She alleges in her charge that Respondent engaged in unfair labor practices within the meaning of Section 10(b) of the Illinois Public Labor Relations Act (Act), 5 ILCS 315/1 *et seq.*, when it failed to properly process a grievance filed on Charging Party’s behalf and then failed to effectively communicate the status of the grievance with her.

The Executive Director dismissed the charge on grounds the charge and available evidence failed to raise issues for hearing. Noting Section 10(b)(1)’s intentional misconduct standard in duty of fair representation cases and a union’s discretion in grievance handling under Section 6(d) of the Act, she found that Charging Party failed to provide evidence indicating Respondent failed to pursue the grievance in question due to any bias or hostility towards Charging

Party's activities and/or status that would constitute intentional misconduct or due to anything other than the merits of the grievance. The Executive Director also observed that the timing of Respondent's alleged offensive conduct which occurred nearly two years after Charging Party's participation in the activity alleged to have engendered Respondent's animosity, was too attenuated to indicate intentional misconduct. Finally, the Executive Director determined that available evidence did not support Charging Party's allegation that Respondent failed to adequately communicate with her about her grievance.

Charging Party timely filed an appeal of the Executive Director's dismissal. Respondent did not file a response.

Upon review of the record, the dismissal order, and the appeal, we affirm the dismissal for the reasons stated by the Executive Director. Nothing in the appeal undermines the Executive Director's findings or raises issues for hearing. Charging Party's appeal fails to identify any evidence indicating the Union's failure to pursue her grievance was due to any unlawful motive or intentional misconduct sufficient to warrant reversal of the Executive Director's dismissal. Rather, in her appeal, Charging Party continues to maintain that Respondent failed to file a grievance on her behalf because, although Respondent's representatives provided her with a copy of a grievance filed at "Step 3," there was no "Step 1 or Step 2" grievance found in her personnel file. Accordingly, the Executive Director correctly dismissed the charge on grounds the Charging Party failed to demonstrate that the Respondent engaged in intentional misconduct, and thus, failed to raise an issue of fact or law for hearing. 5 ILCS 315/11(a).

For the above reasons, we affirm the dismissal for the reasons stated by the Executive Director.

BY THE LOCAL PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

/s/ Lynne O. Sered

Lynne O. Sered, Chairman

/s/ Charles E. Anderson

Charles E. Anderson, Member

/s/ Angela C. Thomas

Angela C. Thomas, Member

Decision made at the Local Panel's public meeting in Chicago, Illinois, on July 13, 2023; written decision approved at the Local Panel's public meeting in Chicago, Illinois, on August 10, 2023, and issued on August 10, 2023.

This Decision and Order is a final order of the Illinois Labor Relations Board. Aggrieved parties may seek judicial review of this Decision and Order in accordance with the provisions of Section 11(e) of the Act and the Administrative Review Law. Petitions for review of this Decision and Order must be filed within 35 days from the date the Decision and Order is served upon the party affected by the decision. 5 ILCS 315/11(e).

**STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
LOCAL PANEL**

Steffanie Toney,

Charging Party

and

International Brotherhood of Electrical  
Workers, Local 21,

Respondent

Case No. L-CB-23-014

**DISMISSAL**

On December 14, 2022, Steffanie Toney (Charging Party) filed an unfair labor practice charge in Case No. L-CB-23-014 with the Local Panel of the Illinois Labor Relations Board (Board), alleging that the International Brotherhood of Electrical Workers, Local 21 (Respondent) engaged in unfair labor practices within the meaning of the Illinois Public Labor Relations Act (Act), 5 ILCS 315 (2014). After an investigation conducted in accordance with Section 11 of the Act, I determined that the charge fails to raise an issue of law or fact sufficient to warrant a hearing. I hereby dismiss this charge for the following reasons.

**I. INVESTIGATION**

The City of Chicago Office of Emergency Management and Communication (Employer) employed Charging Party in the job title/classification of Police Communications Operator II. As such, Charging Party was a member of a bargaining unit (Unit) represented by Respondent. Respondent and the Employer are parties to a collective bargaining agreement (CBA) for the Unit that includes a grievance procedure culminating in final and binding arbitration. Charging Party

alleges that Respondent violated the Act when it failed to process a grievance it filed on her behalf. Moreover, Charging Party claims that Respondent failed to effectively communicate the status of her grievance.

Sometime in October 2021, Charging Party learned that she could be discharged for failing to adhere to workplace policy. Following her discovery, Charging Party spoke with Respondent's representatives Vera Edmerson (Edmerson) and Marlon Lacey (Lacey) regarding her impending discharge. On or around January 27, 2022, the Employer placed Charging Party on an unpaid leave. Sometime thereafter, Charging Party discussed her discharge with Lacey. Charging Party claims that she contacted Respondent between January 2022 and May 2022 but never received a response. On or around April 25, 2022, Respondent filed grievance number 01-22-58-0925 contesting the Employer's failure to accommodate Charging Party's religious exemption request.

On or around May 23, 2022, while at a pre-disciplinary hearing, Charging Party allegedly discussed her grievance with Respondent's representative Jerry Rankins (Rankins). According to Charging Party, Rankins indicated that he was unable to provide a specific detail regarding the status of her grievance but assured her that it was filed. On May 25, 2022, Charging Party claims that she contacted Edmerson and Lacey regarding her grievance. In response, they allegedly told Charging Party to direct all correspondence regarding her grievance to Rankins.

On or around June 6, 2022, via email, Charging Party inquired with Respondent about the status of her grievance and expressed her concern with the directive Edmerson, and Lacey gave her. On or around June 8, 2022, via email, Respondent's representative Paul Wright (Wright) informed Charging Party that Rankins filed a grievance on her behalf at the 3<sup>rd</sup> step of the grievance procedure. Moreover, Wright explained to Charging Party that Rankins handles 3<sup>rd</sup> step grievances

and, as such, should be her point of contact regarding her grievance. Lastly, Wright explained that Edmerson and Lacey could assist Charging Party with other concerns.

On June 13, 2022, via email, Charging Party requested a status update on her grievance from Respondent. On June 14, 2022, via email, Rankins informed Charging Party that that the Employer denied her grievance at the 3<sup>rd</sup> step and shared the Employer's reasons for the denial. Moreover, Rankins' response indicated that Charging Party's grievance might not have a favorable outcome because the Employer has treated similar grievances unfavorably. Lastly, Rankins indicated that, while the information might not alter the likely unfavorable outcome of the grievance, he encouraged Charging Party to submit any information that might support her grievance by June 20, 2022. On June 15, 2022, via email, Charging Party requested a copy of her grievance. On June 16, 2022, Respondent provided Charging Party a copy of the 3<sup>rd</sup> step grievance he filed on around April 25, 2022.

On December 5, 2022, via email, Charging Party contacted Rankins regarding her employment status. On December 7, 2022, Rankins informed Charging Party that she should contact the Employer regarding her employment status and informed her that Respondent did not pursue her grievance beyond the 3<sup>rd</sup> step because Respondent did not believe it would garner a favorable outcome. In response, Charging Party expressed her displeasure with the lack of support and transparency she believed Respondent had displayed to her throughout the grievance process.

By telecommunication on December 20, 2022, the Board agent assigned to the charge spoke to Charging Party to clarify the allegations she raised. During the call, Charging Party claimed that the CBA does not allow individuals to file grievances on their own behalf.<sup>1</sup> Moreover,

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<sup>1</sup> Article 7.2 (a) of the CBA states that "the employee and/or the union shall raise grievances in writing" at the 1<sup>st</sup> step. The CBA also grants employees the right to appeal any 1<sup>st</sup> step decision to the second step.

Charging Party claimed that Respondent failed to pursue her grievance properly because the form she received lacked the Employer's signatures and dates. Alternatively, Charging Party alleged that Respondent intentionally misled her and never filed a grievance on her behalf. On December 22, 2021, via electronic mail, the Board agent sent Charging Party an inquiry letter which explained the Board's jurisdiction and sought additional information to determine if a violation occurred. Charging Party failed to provide a response by the established deadline, which was January 5, 2023. On January 17, 2023, Charging Party requested a status update regarding the charge. The Board agent informed Charging Party that she failed to respond by the initial deadline and granted Charging Party an extension, until January 19, 2023, to file a response. Charging Party responded on January 18, 2023, claiming that she engendered the animus of Rankins in October 2020 when she questioned Respondent's ability to enforce the CBA.

## **II. DISCUSSION AND ANALYSIS**

Section 10(b)(1) of the Act provides "that a labor organization or its agents shall commit an unfair labor practice... in duty of fair representation cases only by intentional misconduct in representing employees under this Act." Because of the intentional misconduct standard, demonstration of a breach of the duty to provide fair representation, and a violation of Section 10(b)(1), requires a charging party to "prove by a preponderance of the evidence that: (1) the union's conduct was intentional, invidious and directed at charging party; and (2) the union's intentional action occurred because of and in retaliation for some past activity by the unit member or because of the unit member's status (such as race, gender, or national origin), or animosity between the unit member and the union's representatives (such as that based upon personal conflict or the employee's dissident union practices)." Metro. Alliance of Police v. Ill. Labor Relations Bd., Local Panel, 345 Ill. App. 3d 579,588 (1st Dist. 2003).

To prove unlawful discrimination, which is necessary to establish the second element of a Section 10(b)(1) violation, a charging party must demonstrate, by a preponderance of evidence, that: (1) he or she has engaged in activities tending to engender the animosity of union agents or that his or her mere status, such as race, gender, religion or national origin, may have caused animosity; (2) the union was aware of his or her activities and/or status; (3) there was an adverse representation action taken by the union; and (4) the union took an adverse action against him or her for discriminatory reasons, i.e. because of animus towards a unit member's activities or status. Id. at 588-89.

Moreover, it is well settled that under Section 6(d) of the Act, and various federal and state precedents, the exclusive representative has a wide range of discretion in grievance handling, and as the Board has previously held, a union's failure to take all the steps it might have taken to achieve the results or proper course of action in carrying out its duties as desired by a particular employee does not violate Section 10(b)(1), unless as noted above, the union's conduct appears to have been motivated by vindictiveness, discrimination, or enmity. *Metropolitan Alliance of Police, Chapter 159 (McGreal)*, 30 PERI ¶ 29 (SP SLRB 2013); *ATU (Lawrence)*, 14 PERI ¶ 3011 (IL LLRB 1993); *LIUNA Local 2 (Mazzie)*, 10 PERI ¶ 3004 (IL LLRB 1993); Moore v. Ill., State Labor Relations Bd., Ill. App. 3d 327, 564 N.E.2d 213 (4th Dist. 1990). There must be a causal connection between the employee's activities or status and the union's discriminatory act.

In this matter, the temporal proximity between Charging Party's engagement in activity the allegedly engendered Rankins' animosity and the alleged adverse action is too attenuated. Charging Party allegedly engaged in this activity in October 2020, while the alleged adverse action, Respondent's decision to not pursue her grievance beyond the 3<sup>rd</sup> step, occurred at least 1 years and 8 months later. Furthermore, Charging Party did not provide any evidence supporting

the contention that Respondent treated her disparately from other similarly situated Unit members.<sup>2</sup> Lastly, the available evidence does not suggest that Respondent's conduct was motivated by vindictiveness, discrimination, or enmity. Indeed, Respondent indicated that it decided not to pursue Charging Party's grievance past the 3<sup>rd</sup> step based on the merits of the grievance and Respondent's belief that it could not achieve a favorable outcome with respect to this grievance.

Charging Party also alleged that Respondent violated the Act when it failed to provide her prompt and accurate information regarding her grievance. However, the available evidence indicates that Respondent communicated with Charging Party throughout the process. Moreover, the Board has held that a union's failure to communicate with an employee promptly and accurately is not sufficient to establish a causal connection between any alleged animosity and an adverse representation action. Amalgamated Transit Union, Local 241 (Spratt), 31 PERI ¶ 121. In fact, Charging Party's evidence demonstrated that she received Respondent's support, that she spoke to Respondent's Representatives periodically regarding the status of her employment and grievance, and that they promptly responded to her inquiries in many specific instances.

Here, the available evidence indicates that Respondent processed Charging Party's grievance in accordance with the CBA, and the outcome was based on the merits of Charging Party's case. In this case, the available evidence is not sufficient to raise an issue for hearing.

### **III. ORDER**

Accordingly, this charge is hereby dismissed. The Charging Party may appeal this dismissal to the Board any time within 10 calendar days of service of this dismissal. Such appeal must be

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<sup>2</sup> Charging Party alleged that she was the only unvaccinated employee that the Employer discharged. Allegations that the Employer discriminated against an employee due to his or her medical status, disability, or on the basis of religious beliefs are best addressed with the Equal Employment Opportunity Commission (EEOC).

in writing, contain the case caption and numbers, and must be addressed to the General Counsel of the Illinois Labor Relations Board, 160 North LaSalle Street, Suite S-400, Chicago, Illinois, 60601-3103 or filed electronically at [ILRB.Filing@Illinois.gov](mailto:ILRB.Filing@Illinois.gov) in accordance with Section 1200.5 of the Board's Rules and Regulations, 80 Ill. Admin. Code §§1200-1300. The appeal must contain detailed reasons in support thereof, and the Charging Party must provide it to all other persons or organizations involved in this case at the same time it is served on the Board. Please note that the Board's Rules and Regulations do not allow electronic service of the other persons or organizations involved in this case. The appeal sent to the Board must contain a statement listing the other parties to the case and verifying that the appeal has been provided to them. The appeal will not be considered without this statement. If no appeal is received within the time specified, this dismissal will be final.

**Issued at Springfield, Illinois, this 1<sup>st</sup> day of March, 2023.**

**STATE OF ILLINOIS  
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**Kimberly F. Stevens  
Executive Director**