

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

Calvin L. Fields,	)	
	)	
Charging Party,	)	
	)	
and	)	Case No. L-CA-19-108
	)	
County of Cook and Sheriff of Cook County,	)	
	)	
Respondent.	)	

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

On March 11, 2020, Executive Director Kimberly Stevens dismissed a charge filed on March 16, 2019, by Charging Party Calvin L. Fields alleging Respondents County of Cook (County) and Sheriff of Cook County (Sheriff) (collectively referred to as Employer) engaged in unfair labor practices within the meaning of Section 10(a) of the Illinois Public Labor Relations Act (Act), 5 ILCS 315 (2014), as amended, when the Employer disciplined Charging Party for failing his home checks after calling in sick.<sup>1</sup> Charging Party timely appealed the dismissal. The Employer did not file a response.

The appeal presents a threshold procedural issue due to Charging Party’s failure to provide the requisite statement of service under Section 1200.20(f) of the Board’s rules. 80 Ill. Adm. Code

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<sup>1</sup> In relevant part, Section 10(a) of the Act provides as follows:

Sec. 10. Unfair labor practices.

    a) for an employer or its agents:

- (1) to interfere with, restrain or coerce public employees in the exercise of the rights guaranteed in this Act  
\*\*\*\*\*
- (2) to discriminate in regard to hire or tenure of employment or any term or any term or condition of employment in order to encourage or discourage membership in or other support for any labor organization....

§ 1200.20(f). Section 1200.135(a)(1) of the Board’s rules require parties to serve their appeal on all other parties. 80 Ill. Adm. Code §1200.135(a)(1). When a party is represented, service shall be on that party’s representative. 80 Ill. Adm. Code § 1200.20(f). Section 1200.20(f) of the Board’s rules provides that: “The document shall not be considered properly served unless accompanied by proof of service. Proof of service shall consist of a written statement, signed by the party effecting service, detailing the name of the party served and the date and manner of service.” 80 Ill. Adm. Code §1200.20(f). Here, Charging Party failed to include any proof of service showing that the Charging Party served the appeal on the Employer’s representatives.

Despite the defect in service, we find consideration of the criteria for granting a variance appropriate in this case. The criteria used in considering variances are provided in Section 1200.160 of the Board’s Rules and Regulations and are as follows:

- a) the provision from which the variance is granted is not statutorily mandated;
- b) no party will be injured by the granting of the variance; and
- c) the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

80 Ill. Adm. Code §1200.160.

Applying the above criteria to this case, we find all three are satisfied. The certificate of service requirement in Section 1200.20(f) is not statutorily mandated; the Employer would not be prejudiced by allowing the appeal because, as discussed below, the appeal lacks merit; and strictly adhering to the service or timeliness rules could be construed as unreasonable in this case considering the Charging Party is a *pro se* litigant not well versed in the Board’s Rules. Accordingly, we grant a variance from the provisions of Section 1200.20(f) and accept the appeal.

Turning to the merits of the appeal, after a review of the dismissal order, the appeal and the record, we find as follows:

The Executive Director dismissed the charge on grounds the available evidence failed to indicate Charging Party engaged in any protected concerted activity and thus, failed to identify any evidence of the Employer's improper motives for the actions taken against him. The appeal. However, fails to identify any error in the Executive Director's findings of fact, analysis, and/or conclusions and offers no other feasible basis to overturn the dismissal. Specifically, the appeal fails to point to Charging Party's participation in activity protected by the Act. Instead, Charging Party alleges the Employer's actions were unlawful because the Employer violated the collective bargaining agreement; delayed processing his grievances; and violated the Employee Sick Leave Act, 820 ILCS 191/1, *et seq.* Assuming any of Charging Party's assertions could be established, none identify violations of the Act. Moreover, although Charging Party does not specifically allege this, even if we were to construe his appeal as pointing to his filing a grievance over his October 2018 discipline as protected activity, the appeal offers no evidence of any causal connection between his October 2018 grievance and his later suspensions that would indicate the Employer's improper motives.

Accordingly, the Executive Director correctly dismissed the charge on grounds that the Charging Party failed to demonstrate that the Employer engaged in unlawful activity, and thus, failed to raise an issue of fact or law for hearing.

For the reasons set forth above, we grant a variance and accept the appeal but affirm the dismissal for the reasons stated by the Executive Director.

BY THE LOCAL PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

/s/ Robert M. Gierut  
Robert M. Gierut, 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 9, 2020, written decision approved at the Local Panel's public meeting in Chicago, Illinois and via videoconference on August 13, 2020, and issued on August 18, 2020.

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) (2018).

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

Calvin L. Fields,

Charging Party

and

County of Cook and Sheriff of Cook County,

Respondent

Case No. L-CA-19-108

**DISMISSAL**

On March 16, 2019, Calvin L. Fields (Charging Party) filed a charge in Case No. L-CA-19-108 with the Local Panel of the Illinois Labor Relations Board (Board), in which he alleged that Respondent, County of Cook and Sheriff of Cook County (Respondent), engaged in unfair labor practices within the meaning of the Illinois Public Labor Relations Act (Act), 5 ILCS 315 (2014), *as amended*. 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**

Respondent employs Charging Party in the job title or classification of Deputy Sheriff. As such, he is a member of a bargaining unit (Unit) represented by the Illinois Fraternal Order of Police (Union). Respondent and the Union 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 disciplined him for not being at his residence during a home check on numerous occasions.

Charging Party called in sick for October 11, 2018. When Respondent completed a home check on this date, Charging Party was not at his residence. Therefore, Respondent issued Charging Party a three-day suspension. Charging Party called in sick again for December 14, 2018, and February 20, 2019. When Respondent completed a home check on each of these dates, Charging Party was not at his residence. Respondent issued Charging Party a 15-day suspension for failing his home check on December 14, 2018, and a 29-day suspension for failing his home check on February 20, 2019.

Charging Party alleges that Respondent unfairly made home checks and unfairly disciplined him because he did not have prior to attendance issues.

## **II. DISCUSSION AND ANALYSIS**

Section 10(a)(1) of the Act provides that it shall be an unfair labor practice for an employer or its agents, to interfere with, restrain or coerce public employees in the exercise of the rights guaranteed in this Act. In order to prove a Section 10(a)(1) violation, a charging party must demonstrate that (1) he or she engaged in union or other protected concerted activity; (2) the employer was aware of that activity; and (3) the employer took adverse action against him or her for engaging in that activity. Kirk and Chicago Housing Auth., 6 PERI ¶ 3013 (IL LLRB 1990); Green and Warns and City of Chicago, 3 PERI ¶ 3011 (IL LLRB 1987); Gale and Chicago Housing Auth., 1 PER ¶ 3010 (IL LLRB 1985).

A charging party satisfies the third element when he or she establishes a causal connection between his or her protected concerted activity and the employer's adverse action, such that the activity was a substantial or motivating factor in the employer's adverse action against him or her.

Pace Suburban Bus Div., 406 Ill. App. 3d at 495; Chicago Park District, 9 PERI ¶ 3016 (IL LLRB 1993). A casual connection may be inferred if a discriminatory motivation exists. Discriminatory motivation may be established through direct evidence or based on circumstantial factors, including expressions of hostility towards protected activity together with knowledge of the employee's union activity; proximity in time between the employee's union activity and the employer's action; disparate treatment or a pattern of conduct which targets union supporters for adverse employment action; or shifting or inconsistent explanations regarding the adverse employment action. City of Burbank, 128 Ill. 2d at 345-346; County of Menard v. Ill. State Labor Relations Bd., 202 Ill. App.3d 878, 890-891 (4th Dist. 1990).

In this charge, Charging Party failed to identify a protected concerted activity in which he engaged prior Respondent completing home checks when he called in sick and disciplining him that could have served as the impetus for any action on the part of Respondent. Therefore, Charging Party failed to demonstrate that Respondent was motivated to retaliate against him by completing home checks and disciplining him for his absence at these checks for reasons that violate the Act. As such, this charge fails 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 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 11<sup>th</sup> day of March, 2020.**

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



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**Kimberly F. Stevens**  
**Executive Director**