

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

Metropolitan Alliance of Police,)	
Chapter #180,)	
)	
Charging Party,)	
)	Case No. S-CA-20-084
and)	
)	
Village of South Barrington,)	
)	
Respondent.)	

ORDER

On February 17, 2021, Administrative Law Judge Anna Hamburg-Gal, on behalf of the Illinois Labor Relations Board, issued a Recommended Decision and Order in the above-captioned matter. No party filed exceptions to the Administrative Law Judge’s Recommendation Decision and Order during the time allotted, and at its August 12, 2021 public meeting, the Board, having reviewed the matter, declined to take it up on its own motion.

THEREFORE, pursuant to Section 1200.135(b)(5) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1200.135(b)(5), the parties have waived their exceptions to the Administrative Law Judge’s Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.

Issued in Chicago, Illinois, on August 12, 2021.

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

/s/ Helen J. Kim _____
Helen J. Kim
General Counsel

**STATE OF ILLINOIS
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ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION AND ORDER

On January 23, 2020, the Metropolitan Alliance of Police, Chapter # 180 (Charging Party or Union), filed a charge with the Illinois Labor Relations Board’s State Panel (Board) alleging that the Village of South Barrington (Respondent) engaged in unfair labor practices within the meaning of Sections 10(a)(4) and (1) of the Illinois Public Labor Relations Act (Act) 5 ILCS 315 (2014), as amended. The charge was investigated in accordance with Section 11 of the Act.

On August 26, 2020, the Board’s Executive Director issued a Complaint for Hearing. A hearing was conducted on November 5, 2020, in Chicago, Illinois, at which time the Union presented evidence in support of the allegations and all parties were given an opportunity to participate, to adduce relevant evidence, to examine witnesses, to argue orally, and to file written briefs. After full consideration of the parties’ stipulations, evidence, arguments, and briefs, and upon the entire record of the case, I recommend the following:

I. PRELIMINARY FINDINGS

The parties stipulate, and I find that:

1. The Metropolitan Alliance of Police, Chapter 180 (Union), was certified on October 5, 2006, in case number S-RC-06-201.
2. During all times relevant, a collective bargaining agreement existed between the Union and the Village of South Barrington (Respondent).

3. During all times relevant, Marc Reznick was a Village of South Barrington Police Officer and the duly elected President of the Union.
4. During all times relevant, Paula McCombie was the elected Village President of the Village of South Barrington.
5. During all times relevant, McCombie was aware that Reznick was the President of the Union.
6. On July 5, 2019, Reznick filed a grievance (19-01) on his own behalf.
7. At approximately 1:00 pm on August 6, 2019, the parties held a grievance hearing for 19-01 in the mayor's conference room. Reznick, McCombie, and Village Finance Director Michelle Bodie attended.
8. Reznick attended the grievance hearing on his own behalf and as the Chapter President and was authorized by the Union to do so.
9. McCombie attended the grievance hearing as the Village President, as described by Section 6.2 (Step 3) of the Collective Bargaining Agreement, and was authorized by the Respondent to do so.
10. Reznick took contemporaneous notes during the grievance hearing and advised McCombie and Bodie that he was doing so.
11. The grievance could not be resolved at the third step grievance hearing, and ultimately was arbitrated by the parties.
12. There are no procedural or timeliness objections by either party.

II. ISSUES AND CONTENTIONS

The issue is whether the Respondent violated Sections 10(a)(4) and (1) of the Act when it allegedly refused to negotiate in good faith over grievances and refused to consider settling grievances with the Union.

The Union argues that the Respondent committed an independent violation of Section 10(a)(1) of the Act when the mayor allegedly stated that she would not negotiate with her employees and also thereby refused to negotiate with the Union's chosen bargaining representative. The Union further contends that the mayor's alleged statements violated Section 10(a)(4) of the Act because they demonstrate that the Respondent failed and refused to bargain in good faith.

The Respondent denies that it violated Sections 10(a)(4) and (1) of the Act. As a threshold matter, the Respondent denies that the mayor stated she would not negotiate with her employees or with the Union's chosen collective bargaining representative. The Respondent notes that it affirmatively negotiated over the grievance at issue and processed it through arbitration, where the Respondent ultimately prevailed. The Respondent more generally denies that it engaged in any activities that could be construed as bad faith, noting that it consistently seeks to resolve workplace issues before they become grievances.

III. FINDINGS OF FACT

The Union represents a bargaining unit of peace officers employed by the Village of South Barrington (Respondent). There are twelve employees in the bargaining unit. At all times material, Paula McCombie was the Respondent's Village President/Mayor, Thomas Roman was the Police Chief, Sam Parma was the Deputy Police Chief, and Michelle Bodie was the Finance Director and Treasurer. At all times material, Marc Reznick was a police officer employed by the Respondent and he also served as Union President.

The Respondent and the Union are parties to a collective bargaining agreement that is effective from October 12, 2018, through April 30, 2022. The collective bargaining agreement includes a grievance procedure that culminates in final and binding arbitration. The contract states that "a grievance is defined as a complaint arising under and during the term of this Agreement raised by a police officer or the Union involving an alleged violation, misinterpretation or misapplication of an express provision of this Agreement." Step one of the grievance procedure is the officer's sergeant/supervisor. Step two of the grievance procedure is the Police Chief. Step three of the grievance procedure is the Village President. Step four of the grievance procedure is arbitration. There is a specified time frame within which the Respondent must answer the grievance at each step. The contract states that "if the Village fails to provide an answer within the time limits so provided, the grievance shall be deemed denied and the Union may immediately appeal to the next step."

The parties' contract likewise contains a management rights clause, which grants the Respondent authority to "schedule and assign work." However, the contract further states that the Respondent must provide 30 days' notice to an officer before changing his "normal work

schedule.” Neither the parties’ contract nor the employee handbook addresses scheduling changes in the context of a light duty assignment.

1. Reznick’s Grievance

On May 29, 2019, Reznick was injured on the job. As a result of his injury, the Respondent ordered him to work a light duty schedule of Monday through Friday, 8 am to 4 pm. During this time, he performed some duties of an administrative assistant. On July 1, 2019, Chief Roman instructed Reznick that he should not report to work on July 4, 2019, but stated that Reznick could make up the missed 8 hours of work before the pay period ended or use benefit time. Had Reznick worked on July 4, he would have earned time and a half because July 4 is a holiday. However, had he made up the time on any other date, he would have earned straight time. Reznick ultimately used eight hours of vacation time for the July 4, 2019, holiday.

On July 5, 2019, Reznick filed a grievance (19-01) on his own behalf alleging that the Respondent violated the contract by changing his schedule without giving him 30 days’ advance notice of the change.

The Respondent denied the grievance at the first two steps and the Union moved the grievance to the third step. On August 6, 2019, the Respondent held a third-step grievance meeting in a conference room attached to the mayor’s office in Village Hall. Mayor McCombie, Treasurer Bodie, and Reznick were present at the meeting, which lasted between 30 minutes and an hour.

The following facts are undisputed¹: The mayor listened to Reznick’s position, never cut him off, and never limited the subjects that could be discussed at the meeting. Reznick asserted that the Respondent had not provided him with 30 days’ notice of the change to his schedule, as he believed the contract required. The mayor informed Reznick that she believed the notice requirement applied to regular assignments, not light duty assignments. She further noted that the contract did not address light duty assignments and that she believed management had authority over such matters. Reznick twice stated that he would move the grievance to arbitration if the mayor did not provide him with some compensation. Mayor McCombie replied that arbitration would at least clarify the issue concerning the scope of the Respondent’s authority to change light duty schedules. Reznick took notes during the meeting on his phone and, at some point during

¹ Although some of these facts were presented through the evidence provided by just one of the parties, the other party did not challenge them through cross examination or contradictory documentary evidence.

the meeting, shared pictures of his children.² At the close of the meeting, McCombie declined to grant Reznick the relief he sought.

Other aspects of the meeting are disputed. Most significantly, the parties disagree over whether Mayor McCombie expressly refused to negotiate with her employees and refused to negotiate grievances going forward. For the reasons that follow, I credit the testimony of the Respondent's witnesses that the mayor made no such statements. The Respondent's witnesses, Mayor McCombie and Treasurer Bodie, each offered consistent testimony on this issue at hearing in this case. They both effectively denied that McCombie made any statement in which she broadly refused to negotiate with her employees or refused to negotiate grievances going forward. Mayor McCombie offered her denial in express and unambiguous terms, with a forthright demeanor. She denied ever having stated that she would not negotiate with Village employees or with the Union. She likewise denied ever expressly refusing to negotiate grievances going forward.

Treasurer Bodie's testimony similarly indicates that McCombie did not express a refusal to negotiate with Village employees or express any refusal to negotiate grievances going forward. While Bodie couched part of her testimony in terms of her recollection, when viewed in context, such phrasing does not indicate any lack of certainty about whether McCombie made the alleged statement. Bodie's full testimony addressing McCombie's alleged statement about the grievances was, "I do not recall that language at all being used." Bodie's emphatic use of the phrase "at all," combined with her subsequent, cogent descriptions of other matters discussed at the meeting, undermine any claim that she was uncertain about whether McCombie had made the alleged statements. While there may have been some aspects of the meeting that Bodie did not remember with perfect clarity, e.g., whether the mayor ever stated that the chief was her employee (Tr. P. 100), Reznick's memory of the meeting was likewise imperfect. Indeed, he could not recall whether he shared pictures of his children at the beginning of the meeting or at the end.

The credibility of the testimony offered by the Respondent's witnesses is reinforced by the fact that it is consistent with the testimony they offered at the arbitration hearing concerning the

² The witnesses offered inconsistent testimony about when Reznick shared pictures of his children. McCombie suggested Reznick shared the pictures at the beginning of the meeting when they were discussing his children (Tr. P. 79-80), Bodie stated that he shared the pictures at the end (Tr. P. 96-97), Reznick was uncertain about when he shared the pictures, noting that it could have been at the end of the meeting, but that he did not recall for certain. (Tr. P. 45.).

disputed grievance.³

Reznick's testimony, by contrast, was less credible on the whole. Reznick asserted that the mayor informed him that she refused to negotiate grievances with her employees and that she refused to negotiate grievances going forward. However, the typed notes he provided to buttress his assertions in fact undermine his credibility overall. Reznick testified that the document represents the notes he took on his phone during the grievance meeting. He asserted that he typed 70-80% of the notes during the meeting itself and finished them in his car after the meeting. However, the document on its face does not bear the hallmarks of contemporaneous notes. To the contrary, it appears to be an edited document that represents a reconstruction of events. Reznick's notes are drafted in the past tense, are comprised mostly of complete sentences, and have few if any typographical errors. The notes also include quotation marks and contain narrative that outlines Reznick's opinions about what the mayor's alleged statements implied.⁴ These are all unusual features for contemporaneously-drafted notes taken on a phone during a meeting at which the author engaged in dialogue. While it is conceivable that Reznick edited his notes after the meeting for flow and clarity, he provided no testimony to this effect. Thus, Reznick's assertion that 70-80% of the document represents notes he took during the meeting defies common sense and undermines the credibility of his testimony as to the statements Mayor McCombie made at the meeting.

The references made by McCombie about the Village hierarchy do not alter the credibility determinations made above. McCombie asserted that she was responsible for all Village employees and that she was the top authority, indicating that all employees report to her. At hearing, Reznick suggested that this statement was McCombie's justification for refusing to negotiate with her employees. However, Bodie provided credible context for McCombie's statement, noting that it was in response to Reznick's reliance on earlier statements that the Chief had made to him regarding the substance of his grievance. Notably, Reznick's own notes on the meeting indicate that the mayor's statement followed on the heels of a statement she made regarding employee pay, and not any statement related to the negotiation of grievances.

³ See Joint Exhibit E.

⁴ For example, the first half of Reznick's notes includes the following: "I brought up that I had lost a lot of time and money due to the injury and the Mayor kept stating that 'you will make your time back'. But when I inquired how I would make my time back, they would not say how. I believe they were implying that I was filing a work comp. claim and they wanted me to tell them I was." U. Exh. B.

At hearing in this case, McCombie explained that she ultimately denied the grievance because she did not want to set precedent that would require the Respondent to give an employee, who was working light duty, 30 days' notice of a change in schedule. She also considered the fact that the Village had offered Reznick the opportunity to work on Saturday, using straight time, which he had declined.

Sometime after the third step grievance meeting, the Union moved the grievance to arbitration. On February 11, 2020, the parties attended a hearing before Arbitrator Steve Bierig. The arbitrator denied the grievance.⁵ He determined that the Respondent did not violate the parties' contract when it informed Reznick on July 1, 2019, that he would not work the July 4, 2019, holiday while assigned to light duty. The arbitrator found that the Respondent was not required to provide Reznick with 30 days' notice of a change to his schedule because that notice requirement applied only to changes to a normal work schedule, not a light duty schedule of the kind worked by Reznick. The arbitrator also determined that the parties had developed no past practice of providing officers with 30 days' notice of a schedule change to a light duty assignment. Accordingly, the arbitrator concluded that the Respondent had discretion pursuant to the contract's management rights clause to change Reznick's schedule without providing him 30 days' notice.

2. Events Post-Grievance Arbitration

The Union filed no grievances after Reznick's grievance, discussed above. Chief Roman explained he counts on his subordinates to identify and fix areas of friction before they become an issue. For this reason, grievances at the Village are rare. Since 2007, the Union has filed only four grievances; McCombie has handled only two grievances at the third step in her seven years as mayor, and only one grievance (Reznick's) has proceeded to arbitration.

After the litigation over Reznick's grievance, the Respondent and the Union remained in communication regarding contractual matters and potential contract disputes. Around March of 2020, Chief Roman approached Reznick to discuss how the parties would handle excess holiday time accumulated by bargaining unit members who were barred from using their holiday time during the COVID-19 crisis. The contract, as written, provided that the Respondent was required to pay out up to 36 hours of holiday time by the April 30 payroll period, but bargaining unit members would lose remaining holiday time above 36 hours. Chief Roman did not want officers

⁵ The award issued on July 10, 2020.

to lose holiday time so he spoke to Union President Reznick and proposed a one-time deviation from the contract's terms, which would allow officers additional time to use their accumulated holiday time. Reznick informed Chief Roman that the proposal sounded good to him. Accordingly, Chief Roman documented the proposal in a formal memo, which he provided to Reznick on April 1, 2020. On April 2, 2020, Reznick accepted Chief Roman's proposal on behalf of the Union via email without further discussion or modification. Both Reznick and Roman initialed the memo outlining the agreed-upon contract modification.

The Respondent has also followed the contract without consulting the Union. For example, in June 2020, Deputy Chief Parma spoke with Officer Jason Axelrod and provided him 30 days' notice of a change to his schedule. The Respondent subsequently changed Axelrod's schedule, pursuant to its authority under the parties' contract.

IV. DISCUSSION AND ANALYSIS

The Respondent did not refuse to negotiate in good faith over grievances or refuse to consider settling grievances with the Union in violation of Sections 10(a)(4) and (1) of the Act.

The duty to bargain requires parties to "meet at reasonable times" and to "negotiate in good faith with respect to wages, hours, and other conditions of employment, not excluded by Section 4 of the Act...." 5 ILCS 315/7. Section 10(a)(4) of the Act makes it an unfair labor practice for an employer or its agents "to refuse to bargain collectively in good faith with a labor organization which is the exclusive representative of public employees in an appropriate unit, including, but not limited to, the discussing of grievances with the exclusive representative[.]" 5 ILCS 315/10(a)(4). A respondent repudiates its collective bargaining obligation when its conduct demonstrates a disregard for the collective bargaining process, evidences an outright refusal to abide by a contractual term, or prevents the grievance process from working. City of Loves Park v. Illinois Labor Relations Board State Panel, 343 Ill. App. 3d 389, 395 (2nd Dist. 2003).

In determining whether a respondent's conduct in processing grievances violates the Act, the Board considers whether the respondent acted in bad faith to prevent the grievance process from working its course. City of Chicago, 30 PERI ¶ 194 (IL LRB-LP 2014); Cook County Hospital, 4 PERI ¶ 3022 (IL LLRB 1988). The Board looks to whether the Respondent's conduct was isolated, justified, or otherwise explained. Cook and Sheriff of Cook Cnty., 6 PERI ¶ 3019 (IL LLRB 1990). The Board also considers whether the union had recourse to obtain resolution

of the grievance, notwithstanding the respondent's conduct. Cook County Hospital, 4 PERI ¶ 3022.

For example, in Cnty. of Cook and Sheriff of Cook Cnty., the Board found that the respondents violated the Act when, on numerous occasions, they never responded to or answered employees' grievances after the first step, and never provided an explanation for their failure to respond to grievances. Cook and Sheriff of Cook Cnty., 6 PERI ¶ 3019; see also City of Markham, 7 PERI ¶ 2021 n. 11 (IL SLRB 1991) (respondent's refusal to hear or process any grievances filed by particular employee violated the Act).

By contrast, in Cook County Hospital, the Board held that the respondent's delay in processing grievances did not violate the Act because the delays were relatively minor, were attended by extenuating circumstances, and did not prevent the union from moving the grievance to the next step. Cook County Hospital, 4 PERI ¶ 3022; see also City of Chicago, 30 PERI ¶ 194 (addressing delay in scheduling arbitration hearings). Similarly, the Board has held that a respondent's isolated breach of the duty to discuss grievances or its refusal to process a grievance based on a good faith defense to the grievance's arbitrability does not violate the Act. Village of Creve Coeur, 3 PERI ¶ 2063 (IL SLRB 1987) (addressing refusal to arbitrate); County of Cook, 21 PERI ¶ 53 (IL LRB-LP 2005) (addressing alleged refusal to discuss grievance; affirming dismissal).

Here, the Respondent did not prevent the grievance process from working its course or otherwise repudiate its collective bargaining obligation with regard to grievances. To the contrary, the Respondent's conduct conformed to the requirements of the Act. The witnesses agree that the Respondent processed Reznick's grievance in accordance with the steps outlined in the parties' collective bargaining agreement. The Respondent denied Reznick's grievance at the first and second steps. At the third-step grievance meeting on August 6, 2019, Mayor McCombie listened to Reznick's concerns and engaged in discussion with him over his grievance for at least a half an hour. When Reznick asserted that the Union would move the grievance to arbitration if McCombie did not provide him with some compensation, McCombie welcomed the prospect, noting that arbitration would clarify the parties' respective rights and obligations. The parties then proceeded to arbitration, as specified under their contract, and the arbitrator ultimately ruled in the Respondent's favor, finally denying the grievance. Thus, the grievance process worked as intended, without delay or interference by the Respondent.

Contrary to the Union's assertion, the preponderance of the evidence demonstrates that Mayor McCombie never expressly refused to negotiate with her employees or refused to negotiate grievances going forward. As discussed in the statement of fact, the Respondent's witnesses credibly, repeatedly, and consistently denied that McCombie ever made such statements during the third step grievance meeting. Reznick's testimony to the contrary was less credible on the whole. He sought to bolster his testimony with a document comprised of notes he purportedly took on his phone during the meeting, but the document presented into evidence does not appear contemporaneously-drafted. It is written entirely in the past tense, uses complete sentences throughout, with one or two exceptions, and contains exceedingly few typographical errors. It also includes quotation marks and describes Reznick's mental impressions about what he believed the speakers were implying. These features, when viewed in the aggregate, are uncommon in contemporaneously drafted notes, let alone notes taken on a phone during a meeting in which the drafter is an active participant. While it is undisputed that Reznick took notes during the meeting, the characteristics of the document presented into evidence sow doubt on its authenticity. In turn, Reznick's assertions about that document undermine the credibility of his testimony regarding McCombie's statements.

McCombie's adamant refusal to settle Reznick's grievance does not qualify as a refusal to bargain in good faith, even if Reznick subjectively viewed it as such. Indeed, both parties acknowledge that the duty to bargain collectively does not require a party to reach a particular agreement or make a particular concession. 5 ILCS 315/7; City of Decatur v. Am. Fed'n of State, County, & Mun. Employees, Local 268, 122 Ill. 2d 353, 367 (1988).

Furthermore, the Union presented no evidence of a pattern of conduct by the Respondent that demonstrates a refusal to process or arbitrate grievances. Rather, the evidence demonstrates that the Respondent fostered a cooperative environment where grievances are rare. There have been only four grievances in the past thirteen years, only two proceeded to the third step in the last seven years, and of those, only one proceeded to arbitration. Notably, the Respondent settled the grievances that did not proceed through all the available steps.

The remaining evidence relied upon by the Union in support of its claim is irrelevant to the charged allegations and also mischaracterizes the Respondent's conduct. The alleged evidence of bad faith, referenced by the Union on brief, is unrelated to the subject of this complaint. One concerns a change to Officer Axelrod's schedule made pursuant to the contract's terms and another

concerns an agreed upon modification to the contract which extends the period of time during which officers can use their benefit time. These instances of conduct do not concern the grievance process and therefore have no bearing on the outcome of this case.

Moreover, none of the instances of conduct demonstrates the Respondent's bad faith in any respect. The Respondent was privileged to unilaterally change officer Axelrod's schedule, without involving the Union. During the term of a collective bargaining agreement, neither party is required to bargain anew concerning matters settled by the contract. Chicago Transit Auth., 15 PERI ¶ 3018 (IL LLRB 1999); Chicago Transit Auth., 14 PERI ¶ 3002 (IL LLRB 1997). And in this case, the contract grants the Respondent authority to change officers' schedules provided that it gives them 30 days' notice, which it did in Axelrod's case. The Respondent's interaction with Axelrod therefore conformed to the terms it negotiated with the Union and in no way demonstrates an unlawful unilateral change or direct dealing, as the Union suggests.

Similarly, the Respondent was privileged to change the terms of the parties' contract to extend the period for using benefit time because the Union agreed to that change. Neither party is free to modify contractual terms over the other's objections and neither party is obligated to bargain over a proposal to modify or reopen a current collective bargaining agreement. Chicago Transit Auth., 15 PERI ¶ 3018; Chicago Transit Auth., 14 PERI ¶ 3002; Department of Military Affairs, 16 PERI ¶ 2014 (IL SLRB 2000). However, parties may voluntarily agree to modify a contract's terms, and that is what occurred here. Union President Reznick agreed to the change first via email and then he initialed a memo drafted by Chief Roman outlining the precise terms of the change. In this case, it is immaterial that the Respondent broached the prospect of such a change or that the Respondent never moved from its initial offer because the Union proffered no counter proposal and voluntarily agreed to the proposed modification. Nothing about this exchange reveals a pattern of bad faith.

For the reasons discussed above, it is appropriate to dismiss the complaint in its entirety. Contrary to the Union's suggestion, there is no independent Section 10(a)(1) allegation pending before me. The complaint contains no independent Section 10(a)(1) allegation, and the Union never moved to amend the complaint to add such an allegation, though the Board rules permit such motions. 80 Ill. Admin. Code 1220.50(f). Rather, the sole 10(a)(1) allegation in the complaint is derivative of the unfounded Section 10(a)(4) allegation, and must therefore also be dismissed.

A Section 10(a)(1) allegation is derivative when it arises as a result of another violation of the Act and stems from the same conduct. City of Chicago, 31 PERI ¶ 129 (IL LRB-SP 2015). The Board’s complaints traditionally indicate a derivative Section 10(a)(1) allegation by stating the primary allegation and following it with the phrase “and (1),” e.g., “Section 10(a)(2) and (1).” Lincolnway Police Communications Center, 25 PERI ¶ 67 n. 13 (IL LRB-LP ALJ 2009). In cases where the Section 10(a)(1) claim is derivative of another violation of the Act, the Board finds a violation of Section 10(a)(1) only if the Board sustains the violation on which it is based. City of Chicago, 31 PERI ¶ 129; Cook County Hospital, 4 PERI ¶ 3022. Here, the Section 10(a)(1) allegation is derivative because the concluding paragraph of the complaint alleges that the Respondent, by its conduct, “refused to bargain in good faith...in violation of Sections 10(a)(4) and (1) of the Act.” Cf. Vill. of Elk Grove Vill., 10 PERI ¶ 2001 (IL SLRB 1993). Thus, the Respondent did not derivatively violate Section 10(a)(1) of the Act because it did not violate Section 10(a)(4) of the Act, upon which the derivative Section 10(a)(1) allegation is based. Cook County Hospital, 4 PERI ¶ 3022.

Moreover, I decline to amend the complaint on my own motion⁶ to add an independent Section 10(a)(1) allegation because the evidence presented at hearing does not support such a claim. Section 10(a)(1) of the Act provides that an employer commits an unfair labor practice when it interferes with, restrains, or coerces public employees in the exercise of the rights guaranteed in the Act. 5 ILCS 315/10(a)(1). A respondent violates Section 10(a)(1) of the Act when it engages in conduct which reasonably tends to interfere with, restrain, or coerce employees in the exercise of rights protected by the Act. City of Lake Forest, 29 PERI ¶ 52 (IL LRB-SP 2012); City of Mattoon, 11 PERI ¶ 2016 (IL SLRB 1995); Clerk of the Circuit Court of Cook Cnty., 7 PERI ¶ 2019 (IL SLRB 1991); City of Chicago, 3 PERI ¶ 3011 (IL LLRB 1987). Employer statements to employees that contain threats of reprisal violate Section 10(a)(1) of the Act. Vill. of Calumet Park, 22 PERI ¶ 23 (IL LRB-SP 2005); City of Highland Park, 18 PERI ¶ 2012 (IL LRB-SP 2002); City of Chicago, 11 PERI ¶ 3008 (IL LLRB 1995); City of Chicago (Police Dept), 3 PERI ¶ 3028 (IL LLRB 1995). Here, the credibility determinations outlined above, made in favor of the Respondent, demonstrate that McCombie did not threaten a refusal to negotiate with

⁶ The Board’s rules permit an ALJ to exercise discretion and amend a complaint on her own motion to “conform [it] to the evidence presented in the hearing or to include uncharged allegations.” 80 Ill. Admin. Code 1220.50(f). However, the Board has held that an ALJ is not required to amend a complaint *sua sponte*. Amalgamated Transit Union, Local 241 (Spratt), 31 PERI ¶ 121 (IL LRB-LP 2015).

her employees or a refusal to negotiate grievances going forward. Thus, even if the Board were to find it appropriate to amend the complaint, I would recommend that the Board dismiss the amendment on the merits.

In sum, the Respondent did not violate Sections 10(a)(4) and (1) of the Act by its conduct in the third step grievance meeting on August 6, 2019.

V. CONCLUSIONS OF LAW

1. The Respondent did not refuse to negotiate in good faith over grievances or refuse to consider settling grievances with the Union in violation of Sections 10(a)(4) and (1) of the Act.

VI. RECOMMENDED ORDER

The Complaint is dismissed.

VII. EXCEPTIONS

Pursuant to Section 1200.135 of the Board's Rules, parties may file exceptions to the Administrative Law Judge's Recommended Decision and Order and briefs in support of those exceptions no later than 30 days after service of this Recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 15 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's Recommendation. Within seven days from the filing of cross-exceptions, parties may file cross-responses to the cross-exceptions. Exceptions, responses, cross-exceptions and cross responses must be filed with the Board's General Counsel, at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103, or to the Board's designated email address for electronic filings, at ILRB.Filing@Illinois.gov. All filing must be served on all other parties. Exceptions, responses, cross-exceptions and cross-responses will not be accepted at the Board's Springfield office. The exceptions and/or cross-exceptions sent to the Board must contain a statement of listing the other parties to the case and verifying that the exceptions and/or cross-exceptions have been provided to them. The exceptions and/or cross-

exceptions will not be considered without this statement. If no exceptions have been filed within the 30-day period, the parties will be deemed to have waived their exceptions.

Issued at Chicago, Illinois this 17th day of February, 2021

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

/s/ Anna Hamburg-Gal

**Anna Hamburg-Gal
Administrative Law Judge**