

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

|   |   |                      |
|---|---|----------------------|
| International Association of Fire Fighters, | ) |                      |
| Local 23,                                   | ) |                      |
|   | ) |                      |
| Charging Party,                             | ) |                      |
|   | ) | Case No. S-CA-20-225 |
| and   | ) |                      |
|   | ) |                      |
| City of East St. Louis (Fire Department, )  | ) |                      |
|   | ) |                      |
| Respondent.                                 | ) |                      |

**ORDER**

On September 21, 2021, Administrative Law Judge Matthew Nagy, 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 the Board, having reviewed the matter, declined to take it up on its own motion at its October 21, 2021 public meeting.

**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the parties have waived their exceptions to the Administrative Law Judge’s Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.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 November 18, 2021.**

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

/s/ Helen J. Kim \_\_\_\_\_  
**Helen J. Kim**  
**General Counsel**

**STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
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| City of East St. Louis (Fire Department),   | ) |                      |
|   | ) |                      |
| Respondent.                                 | ) |                      |

**ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION AND ORDER**

On June 12, 2020, Charging Party, International Association of Fire Fighters, Local 50 (Charging Party or Union) filed an unfair labor practice charge against Respondent, City of East St. Louis Fire Department (Respondent or City) pursuant to Section 11 of the Illinois Public Labor Relations Act, 5 ILCS 315 as amended (Act) and the Rules and Regulations of the Illinois Labor Relations Board (Board), 80 Ill. Admin. Code parts 1200 through 1300 (Rules).

The charge was investigated in accordance with Section 11 of the Act, and on May 19, 2021, the Board’s Executive Director issued a Complaint for Hearing, alleging that the Respondent violated Section 10(a)(1) and 10(a)(4) of the Act when it refused to ratify and execute the terms of a successor agreement between the parties. The Complaint contained the following (emphasis in original):

**RESPONDENT IS HEREBY NOTIFIED** that within 15 days after service of the complaint upon it, pursuant to Section 1220.40(b) of the Board’s Rules and Regulations, 80 Ill. Admin. Code §§1200-1300, it must file an answer to this complaint with Matthew Nagy, at the Illinois Labor Relations Board, 801 South 7th Street, Suite 1200A, Springfield, IL 62703, or electronically at **[ILRB.Filing@Illinois.gov](mailto:ILRB.Filing@Illinois.gov)** in accordance with Section 1200.5 of the Board’s Rules and Regulations. Respondent must serve a copy of the answer upon Charging Party. Please note that the Board’s Rules and Regulations do not allow electronic service of the Answer upon Charging Party. Said answer shall include an express admission, denial, or explanation of each and every allegation of this complaint. Failure to specifically respond to an allegation shall be deemed an affirmative

admission of the facts or conclusions alleged in the allegation. Failure to timely file an answer shall be deemed to be an admission of all material facts or legal conclusions alleged and a waiver of hearing. The filing of any motion or other pleading will not stay the time for filing an answer.

The ILRB's Affidavit of Service notes that the Complaint was sent to Respondent's legal counsel on May 19, 2021 via mail to the email addresses provided on the charge. This email address was confirmed as correct by Respondent's counsel's law firm on August 4, 2021.

Section 1200.30(c) of the Rules provides that a document is presumed served on a party three days after it is mailed. 80 Ill. Adm. Code 1200.30(c). In computing any period of time prescribed by the Act or Part 1200 of the Rules, "the designated period of time begins to run the day after the act, event, or default and ends on the last day of the period so computed." 80 Ill. Adm. Code 1200.30. In addition, "when a time period prescribed under the Act or [Part 1200 of the Rules] is less than 7 days, intervening Saturdays, Sundays, or legal holidays shall not be included." Id. Finally, if the last day of a time period prescribed under the Act "falls on a Saturday, Sunday or legal holiday, the time period shall be automatically extended to the next day that is not a Saturday, Sunday or legal holiday." Id.

Applying these rules, service of the Complaint on the Respondent was presumed effective on May 24, 2021. Under Section 1220.40(b) of the Rules, a Respondent is required to submit its answer to a complaint within fifteen calendar days of service thereof. 80 Ill. Adm. Code 1220.40(b). Accordingly, the Respondent should have filed its answer within fifteen calendar days after May 24, 2021; in other words, by no later than June 8, 2021.

As of August 4, 2021, the Respondent had not filed an answer to the Complaint. Accordingly, on that date, I, the undersigned, issued an order directing the Respondent to show cause why a default judgment should not issue against it for failure to file a timely answer (Order to Show Cause). On August 18, 2021, Respondent filed its Response to the Order to Show Cause (Response) and also filed its Answer. In its Response, counsel for the Respondent acknowledged that Respondent's Answer was due by June 8, but that counsel had "inadvertently missed" the directive to file the Answer. Counsel for the Respondent asserts that because the failure to file the Answer was inadvertent, and because Respondent had corrected its error, sanctions ought not to be imposed by the Board.

## **I. Discussion and Analysis**

A default judgment issues herein because the Respondent failed to file a timely answer.

The consequences for filing a late answer are laid out in no uncertain terms in the Board's Rules, which provide that "parties who fail to file timely answers shall be deemed to have admitted the material facts and legal conclusions alleged in the complaint." 80 Ill. Adm. Code 1220.40(b). Further, "(t)he failure to answer any allegation shall be deemed an admission of that allegation." Id. This language was recited on the face of the Complaint, and the section in which it was contained was conspicuously set off by all-caps, bolded lettering.

The Rules go on to make clear that "[f]ailure to file an answer *shall* be cause for the termination of the proceeding and the entry of an order of default." Id. (emphasis added). These rules have been strictly construed by both the Board and courts, which have consistently held that a respondent's failure to timely file an answer to a complaint results in admissions of all allegations in the complaint and an entry of default judgment. Wood Dale Fire Prot. Dist. v. Ill-Labor Relations Bd., 395 Ill. App. 3d 523 (2nd Dist. 2009), aff'g Wood Dale Fire Prot. Dist., 25 PERI ¶ 136 (IL LRB-SP 2008); Metz v. Ill. State Labor Relations Bd., 231 Ill. App. 3d 1079 (5th Dist. 1992), aff'g Circuit Clerk of St. Clair Cnty, 6 PERI ¶ 2036 (IL SLRB 1990); Peoria Hous. Auth., 11 PERI ¶ 2033 (IL SLRB 1995); Chicago Hous. Auth., 10 PERI ¶ 3010 (IL LLRB 1994); Cnty. of Jackson (Jackson Cnty. Nursing Home), 9 PERI ¶ 2025 (IL SLRB 1993); City of Springfield, Office of Pub. Utils., 9 PERI ¶ 2024 (IL SLRB 1993).

Section 1220.40(b)(4) of the Rules provides that:

Leave to file a late answer shall only be granted by the Administrative Law Judge if the late filing is due to extraordinary circumstances, which will include among other things: fraud, act or concealment of the opposing party, or other grounds traditionally relied upon for equitable relief from judgments.

80 Ill. Admin. Code 1220.40(b)(4).

However, Respondent's inadvertence does not constitute an extraordinary circumstance under Section 1220.40(b)(4). See First Transit/River Valley Metro, 26 PERI 38 (IL LRB-SP 2010), aff'd by unpub. order, 27 PERI 61 (3rd Dist. 2011); City of Markham, 27 PERI 7 (IL LRB-

SP 2011). Accordingly, the Respondent has not shown sufficient cause as to why default judgement should not issue against it.

## **II. Admitted Allegations**

The Respondent, by failing to file an answer, has waived its right to a hearing and admitted the following material facts and legal allegations as stated in the Complaint:

1. At all times material, Respondent has been a public employer within the meaning of Section 3(o) of the Act.
2. At all times material, Respondent has been subject to the jurisdiction of the State Panel of the Board pursuant to Section 5(a-5) of the Act.
3. At all times material, Charging Party has been a labor organization within the meaning of Section 3(i) of the Act.
4. At all times material, Charging Party has been the exclusive representative of a historical bargaining unit (Unit) composed of Respondent's full-time employees in the job titles or job classifications of Firefighter, but excluding the Fire Chief and any Assistant Fire Chief.
5. On or around September 28, 2018, Charging Party and Respondent filed a Joint Request for Mediation Panel to negotiate a successor agreement.
6. During a mediation session on or around July 12, 2019, Charging Party's and Respondent's bargaining teams reached an agreement on all issues for their successor agreement.
7. On or around December 16, 2019, Respondent, during a city council meeting, refused to ratify and execute the successor agreement reached by the parties as referenced in paragraph 6.
8. Respondent has failed and/or refused to provide an explanation for its actions as described in paragraph 7.
9. To date, Respondent has failed and refused to provide a signed, ratified successor agreement to Charging Party.
10. Respondent refused to reduce an agreement to writing, as described in paragraphs 7 and 9.
11. By its acts and conduct as described in paragraphs 6, 7, 8, 9, and 10, Respondent has failed and refused to bargain in good faith with the Charging Party, in violation of Sections 10(a)(4) and (1) of the Act.

### **III. Conclusion of Law**

The Respondent violated Section 10(a)(4) and 10(a)(1) of the Act when it refused to ratify and execute the parties' successor agreement.

### **IV. Recommended Order**

IT IS HEREBY ORDERED that the Respondent, City of East St. Louis Fire Department, its officers and agents shall:

- 1) Cease and desist from:
  - a) Failing to bargain collectively and in good faith with the Charging Party with respect to wages, hours, and other terms and conditions of employment of its bargaining unit's members.
  - b) In any like or related manner, interfering with, restraining or coercing their employees in the exercise of the rights guaranteed them in the Act.
- 2) Take the following affirmative action necessary to effectuate the policies of the Act:
  - a) Reduce to writing and execute the agreed-upon terms of the successor agreement.
  - b) Upon request, resume bargaining in good faith over all the items which relate to the wages, hours, or terms and conditions of employment—including staffing of machines—of the members of the Union's bargaining unit.
  - c) Post, for 60 consecutive days, at all places where notices to employees are normally posted, signed copies of the attached Notice. The Respondent shall take reasonable efforts to ensure that the Notice is not altered, defaced or covered by any other material.

### **V. Exceptions**

Pursuant to Section 1200.135(b)(1)(B) 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 7 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 General Counsel Helen J. Kim of the Illinois Labor Relations Board, 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103, and 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 Springfield, Illinois this 21st day of September, 2021**

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

*/s/ Matthew S. Nagy*

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**Matthew S. Nagy  
Administrative Law Judge**

# NOTICE TO EMPLOYEES

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## FROM THE ILLINOIS LABOR RELATIONS BOARD

ILRB CASE NO. S-CA-20-225

### International Association of Fire Fighters, Local 23/City of East St. Louis (Fire Department)

The Respondent, City of East St. Louis Fire Department, violated Section 10(a)(4) and 10(a)(1) of the Illinois Public Labor Relations Act (Act) when it refused to ratify and execute the parties' successor agreement.

IT IS HEREBY ORDERED that the Respondent, City of East St. Louis Fire Department, its officers and agents shall:

- 1) Cease and desist from:
  - a) Failing to bargain collectively and in good faith with the Charging Party, International Association of Fire Fighters, Local 23, with respect to wages, hours, and other terms and conditions of employment of its bargaining unit's members.
  - b) In any like or related manner, interfering with, restraining or coercing their employees in the exercise of the rights guaranteed them in the Act.
- 2) Take the following affirmative action necessary to effectuate the policies of the Act:
  - a) Reduce to writing and execute the agreed-upon terms of the successor agreement.
  - b) Upon request, resume bargaining in good faith over all the items which relate to the wages, hours, or terms and conditions of employment of the members of the Charging Party's bargaining unit.
  - c) Post, for 60 consecutive days, at all places where notices to employees are normally posted, signed copies of the attached Notice. The Respondent shall take reasonable efforts to ensure that the Notice is not altered, defaced or covered by any other material.

Date: \_\_\_\_\_

City of East St. Louis Fire Department

(Employer)

This notice shall remain posted for 60 consecutive days at all places where notices to our bargaining unit members are regularly posted.

## ILLINOIS LABOR RELATIONS BOARD

801 South 7th Street, Suite 1200A  
Springfield, IL 62703  
(217) 785-3155

160 North LaSalle Street, Suite S-400  
Chicago, Illinois 60601-3103  
(312) 793-6400

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**THIS IS AN OFFICIAL GOVERNMENT NOTICE  
AND MUST NOT BE DEFACED.**

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