IPLRA Developments

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ILLINOIS LABOR RELATIONS BOARD
SELECTED CASE SUMMARIES

I. Jurisdiction

The six-month limitations period

In Aurora Sergeants Association/City of Aurora, __ PERI ____ (IL LRB-SP 2008)(Case No. S-CA-07-051, October 16, 2008), the Board upheld the administrative law judge's refusal grant Charging Party's motion to amend complaint, finding that when Charging Party first made the motion to amend, it was over twenty months after it had learned Respondent took the action complained of, and therefore, well beyond the six month time limitation set forth in Section 11(a) of the Illinois Public Labor Relations Act (Act), 5 ILCS 315 (2006), as amended, and reiterating that the six month limitations period begins to run when the charging party has knowledge of the alleged unlawful conduct or reasonably should have known of it.

II. Representation issues

A. Contract bar

In Policemen's Benevolent Labor Committee/City of Pekin/Pekin Lodge No. 105, Fraternal Order of Police, Illinois Fraternal Order of Police Labor Council, 23 PERI 174 (IL LRB-SP 2007)(Case No. S-RC-07-112), Petitioner, Policemen's Benevolent Labor Committee (PBLC), sought a representation election and certification as the exclusive representative of a bargaining unit consisting of all sworn police officers in the ranks of Sergeant and below, employed by Employer and represented by the Incumbent, Illinois Fraternal Order of Police Labor Council (FOP). The Employer and the FOP opposed the petition, asserting that pursuant to Section 9(h) of the Act, PBLC's petition was barred by their collective bargaining agreement. The Board, noting that the window period, the 30-day time period beginning 90 days prior to the expiration date of a collective bargaining agreement, exists in order to give employees an opportunity to choose another bargaining representative, and the "premature extension rule" prevents the parties to the agreement from depriving employees of that opportunity; if during the term of a collective bargaining agreement, prior to the window period, the parties agree to an amendment or execute a new contract, with a terminal date later than that of the existing contract, the amendment or new contract will not bar an election on a petition filed during the window period, citing H.L. Klion, Inc., 148 NLRB 656 (1964)(emphasis added). The Board concluded that the petition was timely filed and directed an election.

B. Unit determination/appropriateness

In Service Employees International Union, Local 73/American Federation of State, County and Municipal Employees, Council 31/State of Illinois, Department of Central

Management Services, 23 PERI 119 (IL LRB-SP 2007)(Case Nos. S-RC-07-042, S-RC-07-078, S-RC-07-046, and S-RC-07-150), the Board rejected the administrative law judge's conclusion that the only appropriate placement for the petitioned-for employees was in AFSCME's existing bargaining units and instead, determined that the unit petitioned-for by SEIU was likewise an appropriate unit, noting where, as in this case, more than one petitioned-for unit is appropriate within the meaning of Section 9(b), the resolution is a vote among the petitioned-for employees.

In International Brotherhood of Teamsters/City of Chicago, 23 PERI 172 (IL LRB-LP 2007)(Case No. L-RC-06-008, Member Anderson, dissenting), Petitioner sought pursuant to a showing of majority interest, certification as the exclusive representative of a bargaining unit consisting of the approximately twenty-three persons employed by the City of Chicago in its Office of Emergency Management and Communications. The Employer opposed the petition, asserting that a stand-alone unit composed solely of the petitioned-for employees was inappropriate and that the only appropriate unit for their inclusion would be the existing Unit II, a pre-Act unit represented by a coalition of labor unions that does not include Petitioner. The Board, agreeing with the administrative law judge's recommendation, determined the petitioned-for unit appropriate, finding the policy of creating large, functionally-based units must be harmonized with the rights created by the Act, and further explaining that in this case, dismissal of the petition would result in the petitioned-for employees' rights under the Act continuing to be dependent, as they had been for the approximately twelve years their title existed, on the Unit II coalition seeking to represent it.

In Illinois Nurses Association/State of Illinois, Departments of Central Management Services and Healthcare and Family Services, 23 PERI 173 (IL LRB-SP 2007)(Case No. S-RC-07-036), after reviewing the petitioned-for unit in light of the considerations set forth in Section 9(b), the Board concluded that only the fragmentation factor favored dismissal and found that insufficient to deny the petition.

In International Brotherhood of Teamsters, Local No. 726/Village of South Holland, 24 PERI 27 (IL LRB-SP 2008)(Case No. S-RC-06-089), the Board found no merit to the Employer's argument that it was disadvantaged by the administrative law judge's refusal to allow it to put on evidence on whether the only appropriate unit within which to place the petitioned-for employees, sergeants and lieutenants, was the already existing unit of police officers represented by a labor organization other than Petitioner, which did not seek to intervene on the instant petition.

In International Union of Operating Engineers, Local No. 520/Village of Maryville, 24 PERI 29 (IL LRB-SP 2008)(Case No. S-RC-07-038), Petitioner sought a representation election

and certification as the exclusive representative of a bargaining unit consisting of all persons employed full-time and regular part-time by the Employer, in either its Street Department or its Water and Sewer Department, including those employees in the Water Plant Operator title. The Employer opposed the petition, asserting that pursuant to Section 3(m) of the Act, the employees in the Water Plant Operator title were "professional" employees. The administrative law judge determined that the water plant operators ensure that the Village's water supply is safe for consumption, and accomplish that end primarily by collecting and testing water samples, monitoring whether the water meets the standards set by the Environmental Protection Agency and those set by the Village. The administrative law judge concluded that in performing this function, the operators consistently exercise discretion to ensure the water supply meets the necessary standards. However, he also determined that the operators devote at most, four hours a day to this task, and thus, concluded that given that they spend their remaining work hours performing routine maintenance duties, the evidence failed to establish that the operators are engaged in work predominantly intellectual and varied in character rather than routine mental, manual, mechanical or physical work. The administrative law judge went on to note that even if the Employer proved that the operators met the first part of the definition, that is, that they are "engaged in work predominantly intellectual and varied in character[,]" the title fails the second part, in that it does not require advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning. The administrative law judge concluded, and the Board agreed, that the Village both misconstrued the definition's advanced knowledge requirement and misapplied National Labor Relations Board caselaw. The Board further noted the administrative law judge's finding that none of the operators possessed even a college degree and correspondingly, that the Village failed to demonstrate a preference for hiring persons with advanced degrees for the title. The Board found that the administrative law judge properly concluded therefore that the education characteristics of the operators' work are not those requiring the use of advanced knowledge and thus, that the employees in the Water Plant Operator title were not professional within the meaning of Section 3(m) of the Act.

In American Federation of State, County and Municipal Employees, Council 31/Service Employees International Union, Local No. 73/County of Cook, 24 PERI 37 (IL LRB-LP 2008)(Case Nos. L-RC-06-024 and L-RC-07-035, Member Anderson, dissenting), the administrative law judge dismissed the petitions, finding the unit sought was inappropriate, given that the petitioned-for employees were only a small fraction of the Employer's overall workforce occupying the petitioned-for titles, encompassed by a county-wide, centralized personnel

classification system. The Board, in rejecting that recommendation, found that the Employer had failed to consistently insist that petitioners seek all employees in the petitioned-for job classifications under its centralized job classification system, and as a consequence thereof, the Board reasoned it could not continue to apply a presumption no longer rooted in fact, which operated to deprive public employees of rights granted them under the Act. Accordingly, the Board directed a representation election on the petitions. See also, Service Employees International Union, Local No. 73/County of Cook, 24 PERI 36 (IL LRB-LP 2008)(Case Nos. L-RC-06-015 and L-RC-07-001, Member Anderson, dissenting).

In Metropolitan Alliance of Police, Chapter No. 294/American Federation of State, County and Municipal Employees, Council 31/State of Illinois, Departments of Central Management Services and Corrections/Illinois State Employees Association, Laborers International Union, Local 2002, 24 PERI 33 (IL LRB-SP 2008)(Case Nos. S-RC-05-090, S-RC-07-006, and S-RC-07-016), the Board determined without merit the Employer's argument that placing persons employed in the title of Internal Security Investigator in its Department of Corrections, into existing units of State employees, created impermissible conflicts of interest. Therein, the Board also rejected Employer's argument that the petitioned-for units were overly narrow.

See also the following precedential decision: American Federation of State, County and Municipal Employees, Council 31/State of Illinois, Department of Central Management Services, __ PERI ____ (IL LRB-SP 2008)(Case No. S-RC-08-026, September 30, 2008).

C. Unit clarification

In American Federation of State, County and Municipal Employees, Council 31/Pleasure Driveway and Park District of Peoria, 24 PERI 84 (IL LRB-SP 2008)(Case No. S-UC-06-024), the Board upheld the administrative law judge's determination that the title in dispute was not a successor to a bargaining unit title, as Petitioner had claimed, and therefore, could not appropriately be placed in the existing unit through the unit clarification process. The Board agreed that Petitioner would have to file a representation petition to accomplish that end.

See also the following precedential decision: American Federation of State, County and Municipal Employees, Council 31/Peoria Housing Authority, __ PERI ____ (IL LRB-SP 2008)(Case No. S-UC-07-020, February 11, 2008).

D. Section 3(c) confidential employees

In Service Employees International Union, Local No. 20/County of Cook (Provident Hospital), 23 PERI 175 (IL LRB-LP 2007)(Case No. L-RC-05-012, Member Anderson, dissenting), the Board found that although the petitioned-for employees, attending physicians,

plainly had access to information that is confidential, as that term is commonly used, the mere access to personnel files, "confidential information" concerning the general workings of the hospital, or to personnel or statistical information upon which the Employer's labor relations policy is based, is insufficient to confer confidential status, citing Chief Judge of the Circuit Court of Cook County v. American Federation of State, County and Municipal Employees, Council 31, AFL-CIO, 153 Ill. 2d 508, 607 N.E.2d 182, 9 PERI ¶4004 (1992).

In Service Employees International Union, Local No. 73/County of Cook, 24 PERI 36 (IL LRB-LP 2008)(Case Nos. L-RC-06-015 and L-RC-07-001, Member Anderson, dissenting), the Board rejected the Employer's argument that the employees in dispute were "managerial and/or confidential as a matter of law" due to their status as "Shakman exempt" employees.

In Metropolitan Alliance of Police, Chapter No. 294/American Federation of State, County and Municipal Employees, Council 31/State of Illinois, Departments of Central Management Services and Corrections/Illinois State Employees Association, Laborers International Union, Local 2002, 24 PERI 33 (IL LRB-SP 2008)(Case Nos. S-RC-05-090, S-RC-07-006, and S-RC-07-016), the Board, agreeing with the administrative law judge, found persons employed in the title of Internal Security Investigator in the State's Department of Corrections were not confidential within the meaning of Section 3(c) of the Act.

See also the following precedential decisions: American Federation of State, County and Municipal Employees, Council 31/Peoria Housing Authority, __ PERI ____ (IL LRB-SP 2008)(Case No. S-UC-07-020, February 11, 2008); Service Employees International Union, Local No. 73/County of Cook, 24 PERI 36 (IL LRB-LP 2008)(Case Nos. L-RC-06-015 and L-RC-07-001, Member Anderson, dissenting).

E. Section 3(j) managerial employees

In Illinois Nurses Association/State of Illinois, Departments of Central Management Services and Healthcare and Family Services, 23 PERI 173 (IL LRB-SP 2007)(Case No. S-RC-07-036), the Board, rejecting the administrative law judge's conclusion, determined that attorneys employed in the Illinois Department of Healthcare and Family Services' Office of Inspector General's Bureau of Administrative Litigation, were not managerial under either the traditional statutory test or the "managerial as a matter of law" analysis developed by the Illinois courts. In so doing, the Board noted that at most, the petitioned-for employees exercise professional discretion and technical expertise, but that this was insufficient to exclude them from collective bargaining under the managerial exclusion.

In Service Employees International Union, Local No. 20/County of Cook (Provident Hospital), 23 PERI 175 (IL LRB-LP 2007)(Case No. L-RC-05-012, Member Anderson, dissenting), the Board found that the administrative law judge properly determined, prior to hearing, pursuant to Section 1210.100(b)(6) of the Rules and Regulations (Rules), 80 Ill. Admin. Code §§1200-1240, that the Employer failed to demonstrate some basis in fact for its claimed managerial exclusion.

In American Federation of State, County and Municipal Employees, Council 31/Pleasure Driveway and Park District of Peoria, 24 PERI 84 (IL LRB-SP 2008)(Case No. S-UC-06-024), the Board upheld the administrative law judge's determination that the title in dispute was not managerial within the meaning of Section 3(j) of the Act, finding nothing to indicate that the petitioned-for individual met the requirements set out therein.

In Service Employees International Union, Local No. 73/County of Cook, 24 PERI 36 (IL LRB-LP 2008)(Case Nos. L-RC-06-015 and L-RC-07-001, Member Anderson, dissenting), the Board rejected the Employer's argument that the employees in dispute were "managerial and/or confidential as a matter of law" due to their status as "Shakman exempt" employees.

See also the following precedential decisions: American Federation of State, County and Municipal Employees, Council 31/Peoria Housing Authority, __ PERI ____ (IL LRB-SP 2008)(Case No. S-UC-07-020, February 11, 2008); Service Employees International Union, Local No. 73/County of Cook, 24 PERI 36 (IL LRB-LP 2008)(Case Nos. L-RC-06-015 and L-RC-07-001, Member Anderson, dissenting).

F. Section 3(r) supervisory employees

In International Union of Operating Engineers, Local No. 150/Village of Hazel Crest, 23 PERI 130 (IL LRB-SP 2007)(Case No. S-RC-06-175), Petitioner sought certification as the exclusive representative of a bargaining unit consisting of all sworn police officers in the rank of Sergeant. The Employer opposed the petition, asserting that the employees sought were excluded pursuant to the exemption for statutory supervisors. The administrative law judge determined that although the sergeants met the principal work requirement, they did not possess the authority to perform any of the statutory indicia with the requisite independent judgment, concluding that the employees in the rank of Sergeant were public employees within the meaning of the Act. The Board accepted the administrative law judge's recommendation, finding it well supported by the record. Contrary to the Board, the Illinois Appellate Court found the petitioned-for employees statutory supervisors, relying on the fact that they issue documented verbal reprimands and may make recommendations for more severe discipline. Village of Hazel Crest v. Illinois Labor Relations Board, Docket No. 1-07-2722, September 26, 2008.

In Service Employees International Union, Local No. 20/County of Cook (Provident Hospital), 23 PERI 175 (IL LRB-LP 2007)(Case No. L-RC-05-012, Member Anderson, dissenting), where the Employer allowed its witnesses to use terms with legal significance, such as "direction" and "supervision," and others, in a conclusory fashion, and failed to elicit specific examples of the petitioned-for employees' day-to-day duties, the Board found it did not prove the claimed exclusion. Additionally, the Board noted that the evidence demonstrated that to whatever extent the petitioned-for employees, attending physicians, exercise direction, it derived solely from their superior knowledge and technical expertise.

In American Federation of State, County and Municipal Employees, Council 31/State of Illinois, Department of Central Management Services, 24 PERI 28 (IL LRB-SP 2008)(Case No. S-RC-04-066), in support of its contention that the petitioned-for employees direct their subordinates with the requisite independent judgment, the Employer noted only their ability to prioritize the work of their subordinates, their responsibility for the upkeep of their subordinates' inventory, their responsibility for ensuring their subordinates' training, and their responsibility for monitoring the quantity and quality of their subordinates' work. The Board pointed out that the administrative law judge, in her decision, acknowledged these oversight duties performed by the petitioned-for employees, yet concluded, based on the record, that they lacked significant discretionary authority to affect the employment of their subordinates. The Board in agreement with the administrative law judge, found the claimed exclusion without merit.

In American Federation of State, County and Municipal Employees, Council 31/Peoria Housing Authority, __ PERI ____ (IL LRB-SP 2008)(Case No. S-UC-07-020, February 11, 2008), the Board, noting that the Employer entirely ignored long-standing precedent interpreting Section 3(r), found that the evidence indicated that the petitioned-for employees lacked the authority to perform any of the supervisory indicia, and upheld the administrative law judge's decision.

In American Federation of State, County and Municipal Employees, Council 31/City of Chicago, 24 PERI 39 (IL LRB-LP 2008)(Case No. L-RC-07-008), the Board dismissed the petition, finding the petitioned-for employees "supervisory" within the meaning of Section 3(r) and therefore, excluded from bargaining.

In Illinois Fraternal Order of Police Labor Council/Village of Maryville, __ PERI ____ (IL LRB-SP 2008)(Case No. S-UC-06-064, September 30, 2008), the Board rejected as completely lacking merit, the Employer's argument that the disputed sergeants had general supervisory authority based on the fact that they were paid more than their subordinates, had use of an office, and had sergeant's stripes on their uniforms.

See also the following precedential decisions: International Brotherhood of Teamsters, Local No. 726/Village of South Holland, 24 PERI 27 (IL LRB-SP 2008)(Case No. S-RC-06-089); Metropolitan Alliance of Police, Chapter No. 456/Village of Western Springs, 24 PERI 24 (IL LRB-SP 2008)(Case No. S-RC-06-081); Metropolitan Alliance of Police, Chapter No. 441/Town of Cicero, __ PERI ____ (IL LRB-SP 2008)(Case No. S-RC-06-015, September 30, 2008).

G. Stipulations as to inclusions/exclusions

In Policemen's Benevolent and Protective Association, Unit 156/City of Chicago, 23 PERI 145 (IL LRB-LP 2007)(Case No. L-RC-05-019), Petitioner (PBPA) sought pursuant to a showing of majority interest, to represent in its existing bargaining unit of sworn police officers in the rank of Lieutenant, employed by the City of Chicago, some thirty sworn officers, also in the rank of Lieutenant and employed by the City, but excluded from the unit in 1995 pursuant to a stipulation between the Fraternal Order of Police, Lodge 7 (FOP), and the City. The Employer opposed the petition, contending that PBPA was bound by the 1995 stipulation between it and the FOP, excluding the lieutenants at issue from the unit now represented by PBPA. The administrative law judge concluded that the PBPA was bound by the 1995 stipulation, and accordingly, dismissed the petition. Rejecting the administrative law judge's determination on this point, the Board reasoned that PBPA was bound by the 1995 stipulation at least through the resulting election and most likely, for some period of time thereafter. However, in light of the passage of time and after the administrative law judge determined in his decision that certain of the petitioned-for employees were not statutorily excluded from collective bargaining, to which no party excepted, there was no longer a rational basis or the factual underpinnings to continue to hold PBPA to that agreement.

III. Employer unfair labor practices

A. Section 10(a)(1) restraint, interference and coercion

In Amalgamated Transit Union, Local 241/Chicago Transit Authority, __ PERI ____ (IL LRB-LP 200_)(Case Nos. L-CA-02-003, L-CA-02-004, and L-CB-01-038, July 27, 2007), the Board clarified an earlier decision (20 PERI ¶80 (IL LRB-LP 2004), vacated and remanded, 358 Ill. App. 3d 83, 830 N.E.2d 630, 21 PERI ¶76, 177 LRRM 3206 (1st Dist. 2005)), wherein it found Respondent violated Section 10(a)(1) of the Act when it threatened certain of its employees and denied Charging Party access to its property to conduct an election, in retaliation for a strike authorization vote. On remand, the Board held that the lawfulness of a strike authorization vote does not hinge on whether the labor organization thereafter fulfills the requirements of Section 17. The Board noted that the consequences of a strike that fails to meet

the Section 17 requirements are set forth in Section 17(b), which provides that an employee who participates in a strike that does not meet the Section 17 requirements shall be subject to discipline by the employer, and further noted that a strike authorization vote is in all cases, activity protected by the Act.

B. Section 10(a)(2) discrimination

In Waukegan Police Labor Committee, Lodge 5/City of Waukegan, 24 PERI 21 (IL LRB-SP 2008)(Case No. S-CA-07-159), the Board upheld the executive director's dismissal of a charge wherein Charging Party asserted that Respondent Employer had discriminated against an officer in that it awarded him fewer chief's points in a promotional process, in retaliation for his union and/or protected activity. The Board found that Charging Party failed to make a *prima facie* showing on any of the elements except for that of the adverse employment action.

In Service Employees International Union, Local 73/Sarah D. Culbertson Hospital, 24 PERI 26 (IL LRB-SP 2008)(Case Nos. S-CA-05-058, S-CA-05-126, and S-CA-05-142), the Board upheld the administrative law judge's decision, finding that he properly determined that Employer Hospital's conduct, in certain instances complained-of, including discharge and discipline of employees in retaliation for engaging in union activity, violated Section 10(a)(2) and (1) of the Act in various regards.

In John Gaw/Chris Loudon/Village of Lisle, 24 PERI 53 (IL LRB-SP 2008)(Case Nos. S-CA-06-205 and S-CA-06-255), the Board dismissed complaints where Charging Parties failed to demonstrate a causal connection between their union and/or protected activity and the adverse employment actions suffered.

In Wood Dale Professional Firefighters Association, Local 3594, International Association of Fire Fighters/Wood Dale Fire Protection District, __ PERI ____ (IL LRB-SP 2008)(Case No. S-CA-08-037, July 16, 2008), a default case, the Board found a violation of Section 10(a)(1) and (2) of the Act, ordered a make-whole remedy, and granted Charging Party's motion for sanctions.

C. Section 10(a)(4) refusal to bargain

(1) Subjects of bargaining

In Aurora Sergeants Association/City of Aurora, 24 PERI 25 (IL LRB-SP 2008)(Case No. S-CA-06-115), Charging Party represented the City's employees in the rank of Sergeant, employed in Respondent's police department. The parties did not dispute that on or about November 1, 2005, effective January 1, 2006, Respondent reduced the number of sergeants, from three to two, allowed to schedule Sunday as one of their off-duty days. Likewise, neither party disputed that Respondent engaged in the complained-of conduct without offering Charging Party

prior notice or an opportunity to bargain. The Board, noting that to increase the number of sergeants on a shift, from nine to ten, by adding a sergeant, is a manning decision, however, to increase the number of sergeants on a shift, from nine to ten, by reducing by one the number of sergeants allowed to schedule Sunday as one of their off-duty days, is a matter of hours, and thus, a mandatory subject of bargaining. Accordingly, the Board found Respondent violated Section 10(a)(4) and (1) of the Act and ordered a make whole remedy.

In Downers Grove Professional Firefighters Association, Local 3234, International Association of Fire Fighters/Village of Downers Grove, __ PERI ____ (IL LRB-SP 2008)(Case No. S-CA-05-085, October 3, 2008), the Board determined that Respondent did not violate Section 10(a)(1) or (2) of the Act in connection with its complained-of actions against two lieutenants, however, it further determined Respondent violated Section 10(a)(4) and (1) of the Act in that it refused to bargain with regard to the criteria for promotion to the rank of Battalion Chief, which is outside the bargaining unit, but pursuant to the Fire Department Promotion Act (FDPA), 50 ILCS 742 (2006), as amended, certain promotions to non-bargaining unit positions are now mandatory subjects of bargaining.

(2) Unilateral change

In Service Employees International Union, Local 73/City of Chicago, __ PERI ____ (IL LRB-LP 2008)(Case No. L-CA-04-052, February 13, 2008), Respondent issued a directive, order 04-021, which required female detention aides to assist in processing male arrestees. The Board, in upholding the administrative law judge's decision, found the action was a unilateral change in a mandatory subject of bargaining, done without granting notice or an opportunity to bargain to the employees' exclusive bargaining representative. As Respondent failed to demonstrate that Charging Party waived its right to bargain over the matter, the Board found a violation of Section 10(a)(4) and (1) of the Act, and ordered an appropriate remedy.

(3) Impasse resolution

In Amalgamated Transit Union, Local 241/Chicago Transit Authority, __ PERI ____ (IL LRB-SP 200_)(Case Nos. L-CA-02-003, L-CA-02-004, and L-CB-01-038, July 27, 2007), the Board clarified an earlier decision (20 PERI ¶80 (IL LRB-LP 2004), vacated and remanded, 358 Ill. App. 3d 83, 830 N.E.2d 630, 21 PERI ¶76, 177 LRRM 3206 (1st Dist. 2005)), finding that the lawfulness of a strike authorization vote does not hinge on whether the labor organization thereafter fulfills the requirements of Section 17. Therein, the Board noted that the consequences of a strike that fails to meet the Section 17 requirements are set forth in Section 17(b), which provides that an employee who participates in a strike that does not meet the Section 17

requirements shall be subject to discipline by the employer, and further noted that a strike authorization vote is in all cases, activity protected by the Act.

IV. Union unfair labor practices

Section 10(b)(4) refusal to bargain

In Harvey Park District/American Federation of Professionals, 23 PERI 132 (IL LRB-SP 2007)(Case No. S-CB-07-023), despite Charging Party's contention that Respondent Union violated the Act in that it failed to execute a proposed collective bargaining agreement, the Board upheld the executive director's dismissal of the charge. In so doing, the Board determined that the Union's failed contract ratification vote provided sufficient grounds for it demand to resume bargaining and further agreed that the Union did not waive its right to conduct a ratification vote by failing to expressly notify Respondent thereof at the outset of bargaining.

V. Procedural issues

A. Board review on its own motion

In International Brotherhood of Teamsters, Local 714/Village of Summit, 23 PERI 128 (IL LRB-SP 2007)(Case No. S-RC-07-059), where neither party filed exceptions to the administrative law judge's decision, the State Panel, after reviewing the case, without reaching the merits, took the case up on its own motion for the sole purpose of effecting a technical correction to the decision.

In Metropolitan Alliance of Police, Chapter No. 28/City of St. Charles, __ PERI ____ (IL LRB-SP 2008)(Case No. S-RC-07-103, July 9, 2008), the Board, pursuant to Section 1200.135(b)(1) of the Rules, "[a] party not filing timely exceptions waives its right to object to the Administrative Law Judge's recommended decision and order," declined to take the case up on its own motion where party filed untimely exceptions.

B. Additional days of hearing

In Service Employees International Union, Local No. 20/County of Cook (Provident Hospital), 23 PERI 175 (IL LRB-LP 2007)(Case No. L-RC-05-012, Member Anderson, dissenting), in response to the administrative law judge limiting the number of days allotted for hearing, Employer argued in its exceptions that it was "arbitrarily barred from completing its entire case." In rejecting the Employer's argument, the Board determined that more evidence of the type that comprised the record would not have resulted in a different outcome, reasoning that if after two days of hearing, resulting in approximately 440 pages of transcript, the Employer was unable to establish some portion of at least one of the statutory exclusions it claimed, allowing it additional time would be futile.

In International Brotherhood of Teamsters, Local No. 726/Village of South Holland, 24 PERI 27 (IL LRB-SP 2008)(Case No. S-RC-06-089), the Board found no merit to Employer's argument that administrative law judge improperly limited the scope and duration of hearing where it consumed four days and the record was well over one thousand pages, including over one hundred exhibits, especially since there existed approximately twenty years of settled caselaw on the issue in dispute and the Employer made no claim, nor was there evidence, that the issue was unique or particularly complex.

C. Deferral to arbitration

In International Brotherhood of Teamsters, Local No. 714/City of East Hazel Crest, 24 PERI 97 (IL LRB-SP 2008)(Case No. S-CA-08-103), Charging Party filed a charge alleging that Respondent engaged in unfair labor practices within the meaning of Section 10(a)(4) of the Act, protesting the Village's discontinuance of the practice of allowing one of its sergeants to use a police car to drive to and from his home to work. Respondent denied the grievance at step one. Charging Party did not advance the grievance to step two. Instead, it made a request to bargain the economic impact of the change, which the executive director deemed to be within the 45 business days required by Article XXVII of the agreement and thus, appropriate for deferral to the grievance procedure. Respondent appealed the deferral, arguing that the executive director's interpretation of the agreement was erroneous and that the applicable provision should be interpreted such that the 45 day period applies only after Charging Party demands bargaining within 10 business days of its knowledge of the change. The Board upheld the deferral, noting that the fact that Respondent was arguing the interpretation of a provision of the collective bargaining agreement emphasizes that the matter is appropriate for deferral.