

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

_____)	
In the Matter of:)	
)	
District of Columbia Water & Sewer)	
Authority,)	
)	
Complainant,)	PERB Case No. 05-U-10
)	
v.)	Opinion No. 807
)	
American Federation of Government)	
Employees, Local 872,)	MOTION FOR CONTINUANCE
)	
Respondent.)	
)	
_____)	

DECISION AND ORDER

The District of Columbia Water and Sewer Authority ("Complainant" or "WASA"), filed a document styled "Unfair Labor Practice Complaint and a Motion for Preliminary Relief" in the above-referenced case. In addition, WASA filed a second document styled "Amended Unfair Labor Practice Complaint and Motion for Preliminary Relief." The Complainant alleges that the American Federation of Government Employees, Local 872 ("Union", "Respondent" or "Local 872"), has violated D.C. Code § 1-617.04(b)(1) and (3) (2001 ed.) by failing to pay arbitration fees for those cases that it loses, effectively cancelling the grievance resolution process in the parties' collective bargaining agreement ("CBA"). The Complainant requests that the Board: (1) grant its request for preliminary relief; (2) order the Respondent to cease and desist from failing to bargain; (3) order the Respondent to pay its share of all outstanding arbitration costs; and (4) order a make whole remedy.

The Union filed an answer denying the allegations. In addition, the Respondent filed a Verified Opposition to the Motion for Preliminary Relief. In its Opposition, the Union claims that all the arbitration bills that formed the basis of the original complaint have been paid. Therefore, the Union argues that the Complainant has not demonstrated that preliminary relief is warranted.

In Slip Op. No. 801, the Board denied the Complainant's request for Preliminary Relief. In addition, paragraphs 3-6 of the Board's Order provide as follows:

* * *

(3) [That] the Board's Executive Director shall refer the unfair labor practice complaint to a Hearing Examiner and schedule a hearing under the expedited schedule set forth below.

(4) [That] a hearing shall be held in this case before August 29, 2005. The Notice of Hearing shall be issued seven (7) days prior to the date of the hearing.

(5) [That] following the hearing, the designated Hearing Examiner shall submit a report and recommendation to the Board no later than twenty-one (21) days following the conclusion of closing arguments or submission of the parties' post-hearing briefs.

(6) [That] the parties may file exceptions and briefs in support of the exceptions no later than seven (7) days after service of the Hearing Examiner's Report and Recommendation. A response or opposition to the exceptions may be filed no later than five (5) days after service of the exceptions.

* * *

Pursuant to paragraph three (3) of the Board's Order, a hearing was to be held before August 29, 2005. However, on August 3, 2005, the Respondent filed a document styled "Respondent's Unopposed Motion to Postpone the Hearing Ordered by the Board in its Decision of July 29, 2005."

In their motion, the Respondent claims that the individual who is responsible for this case is not available to participate in any hearing which is scheduled before August 29, 2005. As a result, the Respondent is requesting that the hearing in this case not be scheduled until after September 23, 2005. The Respondent's attorney claims that she contacted WASA's attorney and was informed that WASA does not object to the postponement.

After reviewing the Respondent's request for a continuance, we have concluded that the reasons noted in support of the request, are reasonable. In addition, the Complainant has not filed an objection to the Respondent's Motion for a Continuance. Therefore, we are granting the Respondent's request for a continuance. As a result, we are directing that the hearing in this case be scheduled the week of September 26, 2005.

For the reasons discussed above, the Board: (1) grants the Respondent's request for a continuance; and (2) directs the development of a factual record through an unfair labor practice hearing which will be scheduled the week of September 26, 2005.

ORDER

IT IS HEREBY ORDERED THAT:

- (1) The Respondent's Motion for a Continuance is granted.
- (2) The Board's Executive Director shall refer the unfair labor practice complaint to a Hearing Examiner and schedule a hearing under the expedited schedule set forth below.
- (3) A hearing shall be scheduled the week of September 26, 2005. The Notice of Hearing shall be issued seven (7) days prior to the date of the hearing.
- (4) Following the hearing, the designated Hearing Examiner shall submit a report and recommendation to the Board no later than twenty-one (21) days following the submission of written closing arguments or post-hearing briefs.
- (6) Parties may file exceptions and briefs in support of the exceptions no later than seven (7) days after service of the Hearing Examiner's Report and Recommendation. A response or opposition to the exceptions may be filed no later than five (5) days after service of the exceptions.
- (7) Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

**BY ORDER OF THE PUBLIC RELATIONS BOARD
Washington, D.C.**

August 12, 2005

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No.05-U-10 was transmitted via Fax and U.S. Mail to the following parties on this the 11th day of August 2005.

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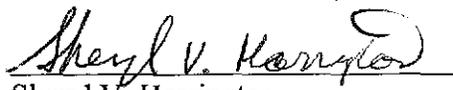
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