

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD

In the matter of:

The American Federation of State,  
County and Municipal Employees,  
Council 20, Local 1033,

Petitioner,

and

The District of Columbia General  
Hospital,

Respondent.

PERB Case No. 86-U-04  
Opinion No. 149

DECISION AND ORDER

On February 6, 1986 the American Federation of State, County and Municipal Employees, District Council 20, Local 1033 (AFSCME) filed an Unfair Labor Practice Complaint (ULP) with the Public Employee Relations Board (Board) against the District of Columbia General Hospital (DCGH). The Complaint alleged that DCGH violated Section 1704(a)(3) of the Comprehensive Merit Personnel Act (CMPA) when some of its management officials attempted to discourage union membership by advising employees who were not union members of possible ways to obtain health benefits without becoming a union member. AFSCME further alleges that on November 7, 1985 certain officials of DCGH conducted a meeting for all supervisors and non-union employees to discuss "hospital, unions vs. non-union employees", after posting a notice of the meeting on its bulletin boards. AFSCME argues that the intent of the meeting was to discourage union membership and as a remedy, seeks a Board order directing DCGH to cease and desist from conducting such meetings and refrain from discriminatory action which discourages union membership.

On February 25, 1986 the District of Columbia Office of Labor Relations and Collective Bargaining (OLRCB) filed an Answer on behalf of DCGH. OLRCB contends that the Complaint should be dismissed for the following reasons:

(1) The Complaint is untimely because it was filed more than the 90 days after the alleged infraction occurred which is the limitation period set by Board Rule 103.1; (2) the partici-

pants in the meeting were solely management officials prohibited by law from becoming members of a collective bargaining unit; and (3) the issues discussed at the meeting concerned the decision of the District Government to provide optical and dental benefits to non-union employees as well as the issue of "on call" pay for non-union employees, a benefit already negotiated for union employees. OLRCB denies that there was any intent to discriminate or any anti-union animus shown by DCGH and contends that the reference in the meeting notice to "union vs. non-union" was an inadvertent mistake.

The issue before the Board is whether the Complaint should be dismissed because it was filed more than 90 days after the date the alleged incident took place.

An investigation of the Complaint verified that it was filed more than 90 days after the alleged violation, the period specified in Board Interim Rules 103.1 which states:

"An agency, a labor organization or an aggrieved person may file a complaint alleging a violation of Section 1704 of the D.C. Law 2-139. A complaint filed by an agency or a labor organization in its own name or by a labor organization in the name of an individual must be filed within ninety (90) days of the alleged violation. A complaint filed by an individual without assistance from or representation by a labor organization for the purpose of filing the complaint must be filed within one hundred twenty (120) days of the alleged violation."

The meeting occurred on November 7, 1985. The Complaint was filed by the union on February 6, 1986. The Complaint filed on February 6, 1986, however, was defective because it did not include an original and six copies in accordance with Board Rule 100.19. The defect was corrected and the Complaint accepted for filing by the Executive Director on February 13, 1986.

The Board finds that the Complaint was filed on February 13, 1986, ninety-seven (97) days after the date of the events complained of.

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Accordingly, the Complaint was untimely filed and, on that basis, is dismissed.

O R D E R

IT IS ORDERED THAT:

The Complaint is dismissed.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD  
May 7, 1987