

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:)	
)	
Robert Aldridge,)	
)	
Complainant,)	PERB Case No. 83-U-02
)	Opinion 63
)	
and)	
)	
American Federation of State, County,)	
and Municipal Employees, Council 20,)	
Local 2091,)	
)	
Respondent.)	

DECISION AND ORDER

On October 14, 1982, Mr. Robert Aldridge (Complainant) filed an Unfair Labor Practice Complaint (ULP) against the American Federation of State, County and Municipal Employees, Council 20, Local 2091 (AFSCME) charging AFSCME with taking actions which interfered with restrained and coerced him in exercising his right not to join or assist a labor organization. In his Complaint, Mr. Aldridge alleged that two (2) shop stewards for Local 2091 made false and misleading statements to him concerning his eligibility for vision and dental insurance benefits in an attempt to force him to join AFSCME.

On October 29, 1983, AFSCME filed its Response denying the allegations and asking the Board to dismiss the Complaint. On December 10, 1982, the Board ordered a hearing. On January 18, 1983, a hearing was conducted by the Board's designated hearing examiner, Mr. Jack Warshaw, at the Board's offices. On March 28, 1983, the Hearing Examiner filed his Report and Recommendation with the Board. On April 11, 1983, the Complainant filed written exceptions to the Hearing Examiner's Report and Recommendation.

The issue before the Board is whether or not the action of AFSCME's agents are sufficient to constitute an unfair labor practice within the meaning of Section 1704 of the Comprehensive Merit Personnel Act (CMPA) (D.C. Code Section 1.618.4)

In early September, 1983, Mr. Aldridge approached a local shop steward at the Blue Plains Treatment facility and inquired as to whether or not he was eligible for the vision and dental benefits mentioned on the computer print sheet which accompanied his paycheck. Mr. Aldridge contends that he was told that he was not eligible for full benefits

because of his nonunion status, but could obtain a pair of safety glasses under the program. Mr. Aldridge further testified that he was told that he would be eligible for full benefits if he joined the union. Later that day, Mr. Aldridge approached a different shop steward and inquired as to his eligibility for vision and dental benefits. The steward responded that she did not know whether or not what he was told by the first steward was accurate or not.

The Hearing Examiner found that the statements made to Mr. Aldridge by the two (2) shop stewards, in the context in which they were made, did not interfere with his right, freely and without penalty or reprisal, to refrain from joining the union. The Hearing Examiner also found that since Mr. Aldridge had never experienced any problem in obtaining benefits under either plan and had not joined the union in order to qualify for such benefits, the steward's advice was erroneous, but was not intended to interfere with, restrain or coerce Mr. Aldridge in exercising his rights under the CMPA.

It is well established that no unfair labor practice exists where there is no evidence of an unlawful, improper or deliberate attempt to mislead or misrepresent. Unfair labor practices are limited to situations where union tactics involve intimidation, reprisals or threats of reprisals. NLRB v. Drivers Local 39, U.S. Supreme Court, No. 34, March 28, 1960, 45 LRRM 2975. Mr. Aldridge initiated the conversations with the stewards and there is no evidence that either of them sought to recruit him or to harrass him for not joining the union. Accordingly, there is insufficient evidence to support a reasonable conclusion that Mr. Aldridge was threatened, or intimidated by AFSCME's statements so as to constitute a violation of the CMPA.

ORDER

IT IS ORDERED THAT:

The Complaint is hereby dismissed based on its failure to establish a violation of Section 1704 of the CMPA (D.C. Code Section 1-618.4) as alleged.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
May 24, 1983