

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)	
Metropolitan Police Department,)	
Petitioner,)	PERB Case No. 01-A-05
and)	Opinion No. 719
)	
Fraternal Order of Police/Metropolitan)	
Police Department Labor Committee)	
(on behalf of Grievant Anthony Brown),)	
Respondent.)	
)	

DECISION AND ORDER

I. Statement of the Case

In a Decision and Order (Slip Op. No. 662) issued on September 25, 2001, the Board denied an Arbitration Review Request filed by the District of Columbia Metropolitan Police Department ("MPD"). MPD was seeking review of an arbitration award (Award) which rescinded the termination imposed on a bargaining unit employee. MPD claimed that the: (1) Arbitrator was without authority to grant the Award; and (2) Award was contrary to law and public policy. The Fraternal Order of Police/Metropolitan Police Department Labor Committee (FOP) opposed the Arbitration Review Request.

The issue before the Board was whether "the award on its face [was] contrary to law and public policy" or whether "the arbitrator was without or exceeded his or her jurisdiction. . . ." D.C. Code Sec. 1-605.02(6) (2001 ed.). Upon consideration of the Arbitration Review Request, the Board found that MPD did not establish a statutory basis for review. Therefore, pursuant to Board Rule 538.4, MPD's Arbitration Review Request was denied.

MPD appealed the Board's decision to the District of Columbia Superior Court. Superior Court Judge Ellen Abrecht vacated the Board's Order and remanded the case to the Board for entry of an order reversing the arbitrator's award. As a result, this case is before the Board for a decision

consistent with Judge Abrecht's Order.

II. Discussion

MPD terminated the grievant, a police officer for: (1) conduct unbecoming an officer which would "affect adversely the employee's or the agency's ability to perform effectively"; (2) his conviction of a criminal or quasi-criminal offense; and (3) willfully and knowingly making an untruthful statement to a superior officer. Before ruling on the merits of the case, the Arbitrator determined that the Grievant's termination was in violation of the procedural rights guaranteed to him by the parties' collective bargaining agreement (CBA). Specifically, the Arbitrator concluded that MPD violated Article 12, Section 7, of the parties' CBA when the Chief of Police failed to respond to the employee's appeal within the fifteen (15) day time limit. As a result, the Arbitrator rescinded the termination and reinstated the Grievant.

MPD took issue with the Arbitrator's Award. Specifically, MPD asserted that the: (1) Arbitrator exceeded his authority by rescinding the Grievant's termination, and (2) award was contrary to law and public policy.

After reviewing the pleadings, the Board found that the Arbitrator's conclusion was based on a thorough analysis and could not be said to be clearly erroneous or contrary to law and public policy. As a result, no statutory basis existed for setting aside the Award. Therefore, MPD's Arbitration Review Request was denied.

MPD appealed the Board's decision to the District of Columbia Superior Court. Superior Court Judge Ellen Abrecht vacated the Board's Order and remanded the case to the Board for entry of an order reversing the arbitrator's award.

In view of the above, the Board is: (1) reversing the Arbitrator's award; and (2) remanding this case to the Arbitrator and directing the Arbitrator to issue a decision on the merits.

For the reasons stated above, we direct the parties to their grievance-arbitration process to resolve the present grievance on the merits. Furthermore, the time limits in the parties' collective bargaining agreement concerning the filing, processing and/or decision to arbitrate are waived to facilitate and effectuate the purposes of the Comprehensive Merit Personnel Act. See, FOP/DOC Labor Committee v. OLR/CB and DOC, 48 DCR 2920, Slip Op. No. 419, PERB Case No. 94-U-14 (1995).

ORDER

IT IS HEREBY ORDERED THAT:

1. The Arbitration Award issued on March 19, 2001 is reversed.
2. This matter is remanded to Arbitrator Salvatore Arrigo. In addition, the Board directs that Arbitrator Arrigo consider Anthony Brown's grievance and issue a decision on the

Decision and Order
PERB Case No. 01-A-05
Page 3

merits of the case.

- 3 The time limits in the parties' collective bargaining agreement concerning the filing, processing and /or decision to arbitrate are waived in order to facilitate and effectuate the purposes of the Comprehensive Merit Personnel Act.
- 4 Pursuant to Board Rule 559.2, this Decision and Order is final upon issuance.

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

June 16, 2003