GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of: The District of Columbia Metropolitan Police Department, Petitioner, and The Fraternal Order of Police/MPD Labor Committee on behalf of Officer Bruce D. Feirson, Respondent.	PERB Case No. 86-A-06 Opinion No. 158

DECISION AND ORDER

On July 10, 1986, Metropolitan Police Department (MPD) filed an Arbitration Review Request seeking Public Employee Relations Board (Board) reversal of an Award issued on June 10,1986. MPD contends that were the Board to sustain the Arbitration Award,

> "It would be tantamount to giving the Arbitrator the authority to redefine the legislative intent behind the enactment of the Statute reserving to management the sole right to promote."

The November 8, 1985 grievance, brought on behalf of Officer Feirson by the Fraternal Order of Police/MPD Labor Committee (Union), alleged a violation of the parties' collective bargaining agreement at Article 13, Section 12, which states:

> "Disciplinary action will not preclude an employee from participating in the promotional process."

The issue presented and resolved by the Arbitrator was:

> Whether the MPD violated Article 13, Section 12 of the collective bargaining agreement when it suspended the grievant from further promotional processing on October 30, 1985 due to the fact that he was served with Trial Board charges on September 3, 1985?

In resolving this issue in favor of the Respondent the June 10, 1986 Award held:

> "The grievance of Officer Bruce D. Feirson as to a violation of Article 13, Section 12 of the negotiated agreement is SUSTAINED. Officer Feirson is to be ordered to report for a promotional physical examination as soon as possible, and upon successful completion of the examination is to be promoted to sergeant with retroactive pay and benefits from November 10, 1985."

The issue before the Board is whether the Arbitration Review Request is timely and whether a statutory basis exists to grant the review request. For reasons that follow the review request must be denied because it was not timely filed.

The threshold question which this Board must address is the timeliness of this Arbitration Review Request.

PERB Rule 107.2 requires that an arbitration review request be filed with the Board no later than twenty (20) days after the award is served.

PERB Rule 100.26 states that filing with the Board shall not be complete until the document is received in the office of the Executive Director.

MPD's Arbitration Review Request was received in the office of the Executive Director on July 10, 1986.

The record before the Board does not provide the date on which the Award was served on the parties. According to the Union it "believes" MPD was served on June 11, 1986 which would make its July 10, 1986 Arbitration Review Request untimely under PERB Rule 107.2. According to MPD it did not receive the Award until its agent personally obtained a copy on June 12, 1986. Therefore, in the absence of evidence to the contrary, the Board rules that MPD was served with the Arbitration Award on June 12, 1986 and that its July 10, 1986 Arbitration Review Request was untimely filed pursuant to PERB Rules 107.2 and 100.26.

Having determined the Arbitration Review Request to be untimely filed the Board need not determine if a statutory basis for granting a review of an Arbitration Award exists in this case.

The Board finds that MPD's Arbitration Review Request was not timely filed. Accordingly, the Arbitration Review Request is denied.

O R D E R

IT IS ORDERED THAT:

The Request for Review of the Arbitration Award is hereby denied.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
April 22, 1987