

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:)	
)	
American Federation of Government)	
Employees, Locals 631, 872 and 2553,)	
American Federation of State, County)	
and Municipal Employees, Local 2091,)	
and National Association of Government)	
Employees, Local R3-06,)	PERB Case No. 04-U-28
)	
Complainants,)	Opinion No. 817
)	
v.)	Petition for Enforcement
)	
District of Columbia Water and Sewer)	
Authority,)	
)	
Respondent.)	
)	

I. Statement of the Case:

Pursuant to Board Rule 560.1, the American Federation of Government Employees, Locals 631, 872 and 2553, the American Federation of State, County and Municipal Employees, Local 2091 and the National Association of Government Employees, Local R3-06 ("Complainants" or "Unions"), filed a Petition for Enforcement, in the above-referenced matter. The Complainants assert that the District of Columbia Water and Sewer Authority ("Respondent" or "WASA") has failed to comply with Slip Op. No. 767, which was issued on January 31, 2005. The Complainants are requesting that the Public Employee Relations Board ("Board" or "PERB") initiate an enforcement proceeding in the Superior Court of the District of Columbia in order to compel WASA to comply with Slip Op. No. 767.

WASA filed a response to the Petition for Enforcement ("Petition") denying that it has failed or refused to comply with the Board's January 31, 2005 Decision and Order. As a result WASA has requested that the Board dismiss the Petition. The Complainants' Petition and WASA's response are before the Board for disposition.

II. Discussion

In Slip Op. No. 767 the Board granted the Complainants' request for preliminary relief and ordered the parties to begin negotiations regarding a successor agreement. In addition, the Board found that WASA violated the Comprehensive Merit Personnel Act. Specifically, the Board determined that WASA violated D.C. Code § 1-617.04(a)(1) and (5) by failing to bargain over compensation and non-compensation matters regarding a successor agreement.

On July 1, 2005, the Complainants filed a *Petition for Enforcement* with the Board. The Complainants contend that WASA has failed to comply with Slip Op. No. 767 by refusing to meet and negotiate with the Complainants regarding a successor agreement. (Pet. at pgs. 4-5). The Complainants are requesting that the Board initiate an enforcement proceeding in the Superior Court of the District of Columbia in order to compel WASA to comply with the terms of the Board's January 31st Decision and Order. In addition, the Complainants are requesting that the Board Order WASA to: (1) pay attorney fees and (2) post a Notice to employees.

WASA filed a response in which it has requested that the Complainants' Petition be dismissed. Specifically, WASA contends that "[a]lthough the parties have not met for compensation bargaining since April 25, 2005, this was due to an altercation and dispute among the Union leadership of Compensation Unit 31 regarding the identification and scope of authority of a Chief Negotiator to speak for all the Unions. [Furthermore, WASA asserts that] the Unions have recently confirmed that Sarah Starrett is authorized to act as Chief Negotiator on behalf of the Unions, and [WASA] and [the Unions] are ... scheduled to return to the negotiation table ... on July 14 [and July 26]." (WASA's Opposition to the Petition at p. 2 and WASA's attachment to the Opposition).

The Board's Decision and Order which is the subject of this Petition was issued on January 31, 2005. Subsequently, on February 17, 2005, the Board received a copy of a letter dated February 11th which was addressed to the Complainants and was signed by Stephen Cook, WASA's Labor Relations Manager. In his letter, Mr. Cook informed the Complainants that pursuant to paragraphs 5 and 6 of the Board's January 31st Order, the parties had agreed to meet on February 22 and February 25, 2005. In addition, Mr. Cook noted that the parties had agreed to meet on March 8, 9, 22, 23 and 24, 2005. Between February 2005 and June 2005, no other correspondence was received from either party concerning this matter. Thereafter, on June 28, 2005, WASA filed an unfair labor practice complaint and a motion for preliminary relief against the Complainants. The June 28th filing was assigned PERB Case No. 05-U-42. In PERB Case No. 05-U-42, WASA asserts that "the Unions have engaged in unlawful, bad-faith bargaining by: (a) refusing to negotiate jointly on behalf of Compensation Unit 31 with [WASA] for purposes of compensation collective bargaining; (b) attempting to force [WASA] to negotiate for compensation purposes with two separate groups despite the fact that the Public Employee Relations Board ("PERB") has authorized a single compensation unit covering all of WASA's union represented employees; (c) attempting to force

[WASA] to negotiate with individuals who have not been authorized to represent all members of Compensation Unit 31; and (d) attempting to change chief negotiators in the middle of negotiations and in violation of the parties' established Ground Rules." (See Compl. in PERB Case No. 05-U-42 at p. 2) In its answer to the complaint in PERB Case No. 05-U-42, the Unions "admit that compensation negotiations with WASA began on February 22, 2005. [In addition, the Unions acknowledge that since WASA filed PERB Case No. 05-U-42,] the parties have met twice on July 14 and 26, 2005, to continue said negotiations." (Answer in PERB Case No. 05-U-42 at p. 3).

It is clear from the pleadings in this case and from the pleadings in PERB Case No. 05-U-42 that at the time the Complainants filed their Petition, WASA had complied with paragraphs 5 and 6 of the Board's Order by meeting with the Complainants on February 22, 2005. Specifically, paragraphs 5 and 6 of the Board's Order requires that the first bargaining session should be held no later than fourteen (14) business days after service of the Board's Order. The February 22nd meeting was fourteen (14) business days after service of the Board's January 31st Order. In addition, paragraphs 2, 3 and 4 ordered WASA to cease and desist from refusing to bargain with the Unions. Both the Unions and WASA acknowledge in their pleadings in PERB Case No. 05-U-42, that the parties met approximately six times between February 22nd and April 29th. (See Pleadings in PERB Case No. 05-U-42, Compl. at p. 5 and Answer at p. 3) In addition, the parties met on July 14 and 26, 2005.

For the reasons noted above, we find that the Complainants have failed to demonstrate that WASA has not complied with our Order in Slip Op. No. 767; therefore, the Complainants' Petition for Enforcement is denied.

ORDER

IT IS HEREBY ORDERED THAT:

1. The American Federation of Government Employees, Locals 631, 872 and 2553, the American Federation of State, County and Municipal Employees, Local 2091, and the National Association of Government Employees, Local R3-06's Petition for Enforcement, is denied.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

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

February 28, 2006

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No.04-U-28 was transmitted via Fax and U.S. Mail to the following parties on this the 28th day on February 2006.

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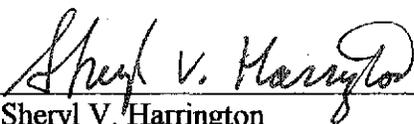
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