

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of: )

JoAnne G. Hicks, )

Complainant, )

v. )

District of Columbia )  
Office of the Deputy Mayor For )  
Finance, Office of the Controller, )

Respondent, )

and )

American Federation of State, )  
County and Municipal Employees, )  
District Council 20, )

Respondent. )

PERB Case No. 91-U-17  
Opinion No. 303

DECISION AND ORDER

On July 5, 1991, JoAnne G. Hicks (Complainant), an employee of the D.C. Office of the Deputy Mayor for Finance, Office of the Controller (OC), filed an Unfair Labor Practice Complaint with the Public Employee Relations Board (Board). The Complaint makes related claims against OC as well as the American Federation of State, County and Municipal Employees, District Council 20 (AFSCME), the labor organization representing the collective bargaining unit in which the Complainant is a member. The Complaint, as amended <sup>1/</sup>, alleges, as unfair labor practices, OC's failure to conform to the Comprehensive Merit Personnel Act (CMPA) when it imposed a performance-related adverse action against Complainant. With respect to AFSCME, the Complaint states that AFSCME failed to properly represent the Complainant in her grievance over OC's performance-related adverse action.

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<sup>1/</sup> On July 11, 1991, the Board sent Complainant a letter pointing out certain deficiencies in the Complaint as filed. On July 17, 1991, Complainant timely filed an Amended Unfair Labor Practice Complaint (Complaint) curing the deficiencies.

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On July 23, 1991, AFSCME filed an Answer asserting that the Board has no jurisdiction over the allegations set forth in the Complaint. AFSCME otherwise denies that it has engaged in proscribed acts and conduct. Moreover, AFSCME contends that the Complainant has failed to state a claim under the CMPA and requests that the Complaint be dismissed.

On July 31, 1991, OC filed an Answer to the Complaint as well as a Motion to Dismiss asserting that the Complaint fails to allege an unfair labor practice and, on that basis, should be dismissed. OC's Answer neither admits or denies the statements and allegations made in the Complaint but rather, as AFSCME did in its Answer, provided an itemized chronology of its account of the events underlying the allegations and claims in the Complaint. On August 9, 1991, the Complainant filed an Opposition to Agency's Motion to Dismiss.

Our review of the parties' pleadings reveals that while issues of fact are contested, taking all of Complainant's allegations as true, the Complaint does not give rise to any unfair labor practices or other claims which the Board is authorized to address under the CMPA and therefore must be dismissed.

The Board finds that the Complaint fails to allege a cause of action within the statutory jurisdiction of the Board under the CMPA. Consequently, resolution of the parties' conflicting accounts of the underlying events, acts, and omissions is unnecessary to a decision upon the pleadings.

Accordingly, OC's Motion to Dismiss the Complaint with respect to the allegations made against Respondent OC is granted. In view of the foregoing, we also dismiss the Complaint allegations against Respondent AFSCME.

ORDER

IT IS HEREBY ORDERED THAT:

The Complaint is dismissed.

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

April 22, 1992