

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 formal 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**

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In the Matter of: )

Doctors' Council of the )  
District of Columbia, )

Complainant, )

v. )

District of Columbia )  
Department of Human Services, )

Respondent. )

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PERB Case No. 96-U-06  
Opinion No. 462

**DECISION AND ORDER ON  
REQUEST FOR PRELIMINARY RELIEF**

On December 21, 1995, Complainant Doctors' Council of the District of Columbia (DCDC), filed a Verified Unfair Labor Practice Complaint with the Public Employee Relations Board (Board). The Complaint charges that Respondent D.C. Department of Human Services (DHS) violated the Comprehensive Merit Personnel Act (CMPA), D.C. Code Sec. 1-618.4(a)(1), (3), (4) and (5). Specifically, the Complainant alleges that Respondent is refusing to continue bargaining over the impact and effects of the closure of the D.C. Village facility, due to take place by March 1996; retaliating against two members of the bargaining team by detailing them away from D.C. Village in the midst of bargaining; and refusing to provide certain information related to the parties' negotiations. Complainant has requested that the Board grant preliminary relief "enjoining the continued details of Dr. Nguyen and Dr. Allin and ordering their return to D.C. Village, pending completion of and the results of [impact and effects] bargaining." (Comp. at 16.) DCDC has also requested that the case be expedited for final determination.

The Office of Labor Relations and Collective Bargaining (OLRCB), on behalf of DHS, filed an Answer to the Complaint and request for preliminary relief on January 18, 1996. While OLRCB did not dispute many of the underlying allegations, OLRCB denies that by its alleged acts or conduct Respondent committed any unfair labor practice. OLRCB further asserts that a scheduled

**Decision and Order on  
Request for Preliminary Relief  
PERB Case No. 96-U-06  
Page 2**

January 10, 1996 bargaining session was cancelled because the D.C. Government was closed due to inclement weather; Dr. Nguyen and Allin were detailed out of D.C. Village at their request; and DCDC has been advised that the information requested would be provided by January 18, 1996.<sup>1/</sup> In view of these disputed facts and circumstances, OLRCB asserts that pursuant to Board Rule 520.15, the case does not support the criteria for granting preliminary relief.

We have held that "[a]lthough irreparable injury need not be shown, ... the supporting evidence must 'establish that there is reasonable cause to believe that the [CMPA] has been violated, and that remedial purposes of the law will be served by pendente lite relief.'" AFSCME D.C. Council 20, et al. v. D.C. Gov't. et al., Slip Op. No. 330 at 4, PERB Case No. 92-U-24, citing Automobile Workers v. NLRB, 449 F.2d 1046 at 1051. While Complainant has provided a Complaint verified by one of its staff representatives, OLRCB has presented documented evidence that significantly contradicts the Complaint allegations and therefore precludes pendente lite relief. Therefore, we do not believe that the remedial purposes of the CMPA will be served by granting Complainant's request in view of the evidence presented. For the reasons we articulated in AFSCME D.C. Council 20, et al. v. D.C. Gov't. et al., DCR, Slip Op. No. 330, PERB Case No. 92-U-24 (1992), we deny DCDC's request for preliminary relief as inappropriate under the criteria articulated by the D.C. Court of Appeals in Automobile Workers v. NLRB, 449 F.2d 1046 (CA DC 1971). However, we shall investigate this Complaint as expeditiously as is feasible, in accordance with Board Rule 501.1 and as set forth in our Order below.

**ORDER**

**IT IS HEREBY ORDERED THAT:**

1. The request for preliminary relief is denied.

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<sup>1/</sup> Dr. Nguyen and Allin are members of the bargaining unit represented by DCDC who are employed by the Department of Human Services (DHS) at its D.C. Village facility. At the time of their detail out of D.C. Village by DHS, Dr. Nguyen and Allin were members of the bargaining team that was negotiating the impact and effect of closing DHS' D.C. Village facility. Dr. Nguyen and Allin's detail to the Commission on Mental Health Services, a component of DHS, did not remove them from the bargaining unit. We further note that in a telephone conversation with the Board's Executive Director, Complainant's counsel confirmed that information was received from OLRCB on January 18 but claims that it is not completely responsive to its request.

**Decision and Order on  
Request for Preliminary Relief  
PERB Case No. 96-U-06  
Page 3**

2. The Notice of Hearing shall issue seven (7) days prior to the scheduled date of the hearing.
3. Following the hearing, the designated hearing examiner shall submit a report and recommendation to the Board not later than twenty (20) days following the conclusion of closing arguments.
4. Parties may file exceptions and briefs in support of the exceptions not later than seven (7) days after service of the hearing examiner's report and recommendation. A response or opposition to exceptions may be filed not later than five (5) days after service of the exceptions.

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

January 22, 1996