

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:)	
)	
Fraternal Order of Police/ Metropolitan)	
Police Department Labor Committee)	
)	PERB Case No. 21-E-02
Petitioner)	
v.)	Opinion No. 1773
)	
Metropolitan Police Department)	
)	
Respondent)	
_____)	

DECISION AND ORDER

I. Introduction

On October 19, 2020, the Fraternal Order of Police/Metropolitan Police Department Labor Committee (FOP) filed a Petition for Enforcement (Petition). Pursuant to PERB Rule 560.1, FOP requests enforcement of PERB Case No. 19-A-04, Opinion No. 1711 (Opinion 1711). FOP alleges that the District of Columbia Metropolitan Police Department (MPD) has failed to comply with Opinion 1711. MPD opposes the Petition for Enforcement but does not contest the facts.¹ The uncontested facts establish FOP's entitlement to relief; thus, the Petition for Enforcement is granted.

II. Statement of the Case

On August 23, 2011, MPD held an Adverse Action Hearing. Following the hearing MPD sustained the charges and terminated the Grievant. The Grievant's appeal to the Chief of Police was denied and FOP invoked arbitration.

¹ On February 2, 2021, the Executive Director of PERB conducted a compliance review to investigate the allegations of the Petition. During the compliance review, MPD admitted that it had not reinstated the Grievant, provided back pay, or otherwise complied with the arbitration award and Opinion 1711.

On January 14, 2019, the Arbitrator issued an Award that ordered MPD to reinstate the Grievant, with back pay and lost job benefits, and reducing the Grievant's termination to a suspension of forty-five (45) days.

On February 5, 2019, MPD filed an arbitration review request (Request) seeking review of the Award. In its Request, MPD argued that the Award was contrary to law and public policy. FOP opposed the Request.

The Board found that MPD's Request did not meet the requirements for reversing the Award. Specifically, the Board found that the Award was not contrary to law and public policy. Accordingly, the Board found no cause to modify, set aside, or remand the Award.

Thereafter, MPD filed a Petition for Review in D.C. Superior Court. On May 20, 2020, the Hon. William Jackson entered an order denying MPD's Petition. MPD did not appeal the denial to the Court of Appeals.

On October 19, 2020, FOP filed the instant Petition for Enforcement. FOP contends the MPD has failed to comply with Opinion 1711 by refusing to reinstate Grievant and provide back pay and benefits as required by the Award. FOP is requesting that the Board enforce Opinion 1711 and compel MPD to comply with the terms of the Award.

III. The Union's Entitlement to Relief

The elements for granting a petition for enforcement are present herein. FOP prevailed at arbitration, and MPD filed an arbitration review request. The Board denied MPD's Request and issued Opinion No. 1711. FOP then filed the instant Petition for Enforcement. MPD has admitted the material facts. MPD has not reinstated Grievant or provided back pay and benefits as required. Therefore, MPD has not complied with the Award.

MPD's failure to comply with the terms of the Award is not based on a genuine dispute over the terms of the Award but is rather a flat refusal to comply with it. It is undisputed that the Board's order affirming the Award became final and that MPD did not comply with the Award after an unsuccessful petition for review to D.C. Superior Court. No dispute over the terms of the Award has been raised and no reason for noncompliance has been suggested. Therefore, the Petition for Enforcement is granted. The Board will seek judicial enforcement of Opinion 1711, as provided under D.C. Official Code § 1-617.13(b).

ORDER

IT IS HEREBY ORDERED THAT:

1. The Fraternal Order of Police/Metropolitan Police Department Labor Committee's petition for enforcement is granted.
2. Within fourteen (14) days from the issuance of this Decision and Order, the Metropolitan Police Department shall fully comply with the terms of the Award, if it has not already

done so, and shall notify the Public Employee Relations Board in writing that it has complied.

3. The Board shall proceed with enforcement of Opinion 1711 pursuant to D.C. Official Code §§ 1-605.02(16) and 1-617.13(b) if full compliance with the Award is not made and documented within fourteen (14) days of the issuance of this Decision and Order.

4. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

By unanimous vote of Board Chairperson Douglas Warshof, Members Barbara Somson, Mary Anne Gibbons, and Peter Winkler

Washington, D.C.
February 18, 2021

Certificate of Service

This is to certify that the attached Decision and Order in PERB Case No. 21-E-02, Opinion No. 1773 was sent by File and ServeXpress to the following parties on this the 19th day of February 2021.

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