

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of: )  
)

Locals 383, 1015, 2737 and 2798 )  
American Federation of Government Employees, )

Complainant, )  
)

and )  
)

The District of Columbia Department )  
of Human Services, )  
)

Respondent )  
)

Case No. 80-U-11

PERB Opinion No. 21

DECISION AND ORDER

The District of Columbia Public Employee Relations Board (hereafter, the Board) pursuant to a Notice issued to the parties on September 25, 1981, reopened this matter on its own motion for the purpose of curing certain procedural problems which arose during the processing of this case.

In a document filed with the Board on October 2, 1981, the Complainant withdrew that portion of the Complaint which charged Respondent with violation of Section 1704(a)(4) of the Comprehensive Merit Personnel Act of 1978 (CMPA), D.C. Code 1-1347.4(a)(4). Additionally, Complainant waived a hearing on the alleged violation of Section 1704(a)(1) and (5) of the CMPA based upon Respondent's failure to provide Complainant with a list of all bargaining unit employees within the agreed upon time limitations. In documents filed with the Board on August 7, August 13 and October 9, 1981, the Respondent waived a hearing on the portion of the Complaint which charged the employer with failure to produce the employee list.

Respondent does not deny having failed to provide Complainant with the list of employees within the specified period of time as agreed. Both parties having waived a hearing on this portion of the Complaint, the Board finds that an unfair labor practice was committed by Respondent as charged.

The Complaint also charges Respondent with violations of Sections 1704(a)(1) and (5) of the CMPA based upon Respondent's failure to reproduce and distribute copies of the negotiated Agreement to all employees prior to March, 1981. The parties executed the Agreement on August 14, 1980 which required, among other things, that the Respondent reproduce and distribute copies to all employees, but it does not

appear that time constraints for reproduction and distribution were established by the parties. The record reflects that Respondent did comply, but not until March, 1981. A delay of seven (7) months appears to be an unreasonable period of time for the employees to have to wait to receive copies of the Agreement, but since the parties specified no time limitations, the Board finds an insufficient basis for an unfair labor practice. The Board notes the absence of evidence in the record to indicate that Respondent made any formal efforts to communicate the fact of the delay and/or the reasons therefor. This lack of communication is a serious impediment to effective labor relations in the District of Columbia government and cannot be condoned.

Respondent has moved to have this Board dismiss the Complaint on grounds that "...the issues raised in the complaint are of a type and character best resolved through the mutually agreed upon contractual procedures for adjusting grievances.." However, Complainant has not filed a grievance, has not stated any intention to file a grievance, and has allowed the time for filing a grievance to lapse, thereby, effectively precluding the timely filing of a grievance. Accordingly, the Board finds that the Complainant effectively waived any grievance arbitration options that might have existed, and opted to pursue this Complaint before the Board.

ORDER

It is ORDERED that:

Respondent cease and desist from committing unfair labor practices by failing to abide by mutually agreed upon terms;

The portion of the Complaint charging Respondent with commission of an unfair labor practice based upon the failure to reproduce and distribute copies of the negotiated Agreement to all bargaining unit employees, is dismissed; and

Respondent's motion to dismiss the Complaint and defer to the grievance arbitration process is denied.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

November 18, 1981