

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD

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In the Matter of:	)	
	)	
William F. Stokes, Jr.,	)	
	)	
Complainant,	)	PERB Case No. 84-S-01
	)	Opinion No. 80
	)	
and	)	
	)	
Local 1550, American Federation of	)	
Government Employees,	)	
	)	
Respondent.	)	

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DECISION AND ORDER

On January 30, 1984, William F. Stokes, Jr. (Complainant) filed a "Standards of Conduct Complaint" with the District of Columbia Public Employee Relations Board (the Board) against Local 1550, American Federation of Government Employees (AFGE). The Complaint alleges that AFGE failed to fairly represent Complainant, a member in good standing of AFGE, when he appealed his discharge from his position as an Electrician Foreman in the Facility Management Bureau of the District of Columbia Department of Corrections (Employer) on October 3, 1981. The Complaint further alleges that AFGE abandoned the appeal of his discharge which was filed with the District of Columbia Office of Employee Appeals (OEA). As a remedy, the Complainant seeks a Board order requiring AFGE to pay him \$46,000 for lost wages, \$300 for union dues paid, \$50,000 for punitive damages and \$50,000 for compensatory damages.

On February 17, 1984, AFGE filed an "Answer" denying that it abandoned representation of Complainant. AFGE contends that it offered Complainant the full benefits of representation, even though Complainant stated that he did not want the AFGE Local's president, its designated representative, involved in his case. AFGE also contends that Complainant failed to exhaust internal union remedies available for resolving this dispute. Accordingly, AFGE requests that the Board dismiss the Complaint.

The issue before the Board is whether or not the Complaint and record filed with the Board supports the charge that AFGE violated the Comprehensive Merit Personnel Act (CMPA) by failing to fairly represent the Complainant.

On October 3, 1981, Complainant was discharged from his employment for allegedly allowing inmates at the Lorton Correctional Facility to store food in a refrigerator under his jurisdiction and for escorting an inmate to an unauthorized area to assist the Complainant in changing a tire on his personal vehicle. On October 22, 1981, Complainant appealed Employer's decision to OEA and represented himself in the proceeding. On December 13, 1983, OEA ruled

that Complainant had unlawfully violated Employer's rules, but recommended that Complainant's discharge be reduced to a sixty (60) day suspension. OEA also ordered full back pay less sixty (60) days to Complainant.

The Complainant alleged that he sought the assistance of AFGE in processing his appeal to OEA, but AFGE failed to fairly represent him because the Local president failed to work diligently on his behalf. Complainant further alleges that he asked to be represented by an AFGE attorney after he lost confidence in the Local president, but the request was denied. Finally, Complainant contends that his appeal was delayed nine (9) months due to AFGE's inadequate performance.

AFGE vigorously denies Complainant's allegations and documented its timely filing of Complainant's appeal. AFGE contends, further, that after filing the appeal, Complainant failed to provide his correct telephone number, removed AFGE's designated representative from the case and represented himself before OEA. AFGE maintains that its unwillingness to provide Complainant with an attorney is based on its standard policy of permitting local representatives to handle discipline and discharge matters, except in those cases in which complex legal issues are involved. Finally, AFGE contends that Complainant failed to exhaust his internal procedures as required by Article XIV, Section 11 of its Constitution.<sup>1/</sup>

The Board, having reviewed this matter, finds no evidence to support Complainant's charge. The May 12, 1982 letter from AFGE's designated representative to the Complainant outlining communications problems clearly states AFGE's willingness to continue to provide representation. Nevertheless,

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<sup>1/</sup>Article XIV, Section 11 states that:

"Any bargaining unit employee alleging an arbitrary, discriminatory or bad faith processing of the employee's grievance or other complaint shall timely appeal to the president of the employee's respective local. Such appeal must be in writing, alleging specific grounds, and must be accomplished within the time requirements set forth in the bargaining agreement or other applicable proceeding or immediately upon discovery of such alleged improper processing. Upon receipt of the written appeal, the president or designee(s) shall immediately conduct a review and take appropriate action as warranted. Invocation of this appeal procedure for matters of this nature is the exclusive remedy available to an aggrieved employee."

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on June 3, 1983, Complainant responded with a letter to OEA strongly attacking the character of the designated representative and removing him from any further representation before OEA on his behalf. Complainant cannot properly remove AFGE's designated representative, demand that AFGE appoint counsel to represent him and upon denial of such demand, claim abandonment. The Board finds that the evidence is insufficient to support a violation of the Standards of Conduct provisions of the Comprehensive Merit Personnel Act.

O R D E R

IT IS ORDERED:

The Complaint is dismissed because it is insufficient to establish a violation of the CMPA.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD  
June 4, 1984