

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:)	
)	
Jacqueline Young,)	
)	
Complainant,)	
)	PERB Case No. 11-U-49 & 11-S-02
v.)	
)	Opinion No. 1219
)	
Teamsters Local Union 922,)	Motion to Dismiss
)	
)	
Respondent.)	

DECISION AND ORDER

I. Statement of the Case

Jacqueline Young (“Ms. Young” or “Complainant”) filed an Unfair Labor Practice and Standard of Conduct Complaint (“Complaint”) against Teamsters Local Union 922 (“Teamsters,” “Union” or Respondent”). The Complaint alleged Respondent illegally removed and suspended Complainant from her elected position within the Union and engaged in “the abuse of power in which they were sworn to uphold the maintenance of the fiscal integrity in the conduct of the affairs of the organization.” (emphasis added) (Complaint at pg. 1).

Respondent filed an Answer to the Complaint (“Answer” or “Motion”) denying Complainant’s allegations and motioned for the matter to be dismissed.

II. Discussion

Complainant is a *pro se* litigant. Complainant alleges that on July 23, 2011, she discussed an arbitration award (“Award”) with Mrs. Ferline Buie, President of Teamsters Local Union 922.

The Award declined to reinstate Complainant to the position of Metrobus operator at Washington Metropolitan Area Transit Authority ("WMATA"), a position she was terminated from on November 5, 2009. See, Complaint at pg. 2; also see, Answer at pg. 2.¹ Ms. Young alleges that Ms. Buie stated there was nothing she could do to assist the Complainant further and that Ms. Buie did not provide a reason for the arbitrator's decision. See, Complaint at pg. 2. Complainant asserts that she contacted Ms. Buie on two other occasions to request materials related to the Award, but she never received the information. See, Complaint at pg. 2. Complainant further alleges that she worked for WMATA for ten (10) years, and the present action is her first termination. See, Complaint at pg. 2. In addition, Complainant maintains that on September 2, 2011, she contacted Mr. Cannon, who also stated that arbitration decisions were final. See, Complaint at pg. 2. Respondent admits that Ms. Ferline Buie and Complainant discussed the Award and that Complainant was a Metrobus operator for ten years. See, Answer at pgs. 1-2. In addition, Respondent asserts that, pursuant to the parties' collective bargaining agreement ("CBA"), arbitration decisions are final and binding, and there is no appeals process provided for in the CBA. See, Answer at pg. 2. Respondent maintains that it does not possess sufficient knowledge to admit or deny Complainant's allegation that she contacted Mr. Cannon. See, Answer at pg. 2. Respondent denies the Complainant's other factual allegations. See, Answer at pg. 2.

Additionally, Complainant alleges that on October 1, 2009, she was approached by several coworkers concerning "slanderous, derogatory and inappropriate defamatory comments" that were posted on her Facebook account. See, Complaint at pg. 2. Ms. Young states that she reported the comments to her Assistant Supervisor², and that the Assistant Supervisor had witnessed Complainant being cyber-bullied. See, Complaint at pg. 3. Complainant further asserts that she had a panic attack shortly after speaking with the Assistant Supervisor. See, Complaint at pg. 3. Ms. Young further alleges that prior to the cyber-bullying incident, the Civil Rights Advocate for WMATA held several meetings explaining WMATA's zero tolerance policy for cyber-bullying at the workplace. See, Complaint at pg. 3.

Respondent admits that Complainant was informed by several co-workers of the comments on Facebook and that she reported the incident to her Assistant Supervisor. See, Answer at pt. 3. Respondent then asserts:

After reading the Facebook entries, the Complainant started her bus route for the day, driving her bus to its first stop. Before picking up any passengers, the

¹ In the Answer, Respondent asserts that the Complainant was discharged from her employment as a Metrobus operator at WMATA on November 5, 2009. The Union also asserts that the Complainant filed a grievance of the dismissal which was subsequently denied on October 18, 2010. The Respondent then states that the matter was appealed to arbitration, and Arbitrator Michael Wolf determined that the Complainant was terminated for sufficient cause and denied the grievance. See, Answer at pg. 2.

² In the Complaint, Complainant refers to the individual as the Assistant Superintendent. See, Complaint at pg. 2.

Complainant began suffering what she described as a panic or anxiety attack, causing her to hyperventilate and to cry uncontrollably. Realizing that she could not safely continue her route, the Complainant called in sick. A supervisor retrieved the Complainant from her bus and brought her back to the bus garage, where she began acting out by hitting a glass case with her fists. When other employees tried to physically restrain her, the Complainant resisted and they fell to the floor. The Complainant then went to the break room and began kicking the vending machines and throwing over chairs and a table. The Complainant then got up and went into the bathroom, where she kicked and broke a large wall mirror. The Complainant was terminated on November 5, 2009.

(Answer at pg. 3). Respondent denies any conflicting factual allegations and that it does not have sufficient information to admit or deny the allegation that Complainant has witnessed other employees commit repeated violations and be reinstated. See, Answer at pg. 3.

In addition, Complainant alleges that Respondent dismisses any concerns or questions she has regarding the Union's responsibility to appropriately represent and protect her as a bargaining unit member and asserts she has exhausted her grievances. See, Complaint at pg. 3. Respondent denies the allegations. See, Answer at pg. 3.

The Complainant then asserts that Respondent's conduct constituted an unfair labor practice and violated D.C. Code §§§ 1-617.03(a); 1-617.03(2); and 1-617.04(b)(2), (3) and (5). Ms. Young requests that Respondent be ordered to post notice of its violations. See, Complaint at pg. 4.³

³ D.C. Code § 1-617.03(a): Recognition shall be accorded only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. A labor organization must certify to the Board that its operations mandate the following:

- (1) The maintenance of democratic provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participate in the affairs of the organization, to fair and equal treatment under the governing rules of the organization, and to fair process in disciplinary proceedings;
- (2) The exclusion from office in the organization of any person identified with corrupt influences;
- (3) The prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members;
- (4) Fair elections; and
- (5) The maintenance of fiscal integrity in the conduct of the affairs of the organization, including provision for accounting and financial controls and regular financial reports or summaries to be made available to members.

D.C. Code § 1-617.04(b): Employees, labor organizations, their agents, or representatives are prohibited from:

- (1) Interfering with, restraining, or coercing any employees or the District in the exercise of rights guaranteed by this subchapter;
- (2) Causing or attempting to cause the District to discriminate against an employee in violation of § 1-617.06;
- (3) Refusing to bargain collectively in good faith with the District if it has been designated in accordance with this chapter as the exclusive representative of employees in an appropriate unit;

Respondent denies that it committed an unfair labor practice and states that Complainant is not entitled to the relief requested. See, Answer at pg. 3. Respondent further asserts the affirmative defenses that the Washington, D.C. Public Employee Relations Board (“PERB”) lacks jurisdiction to over WMATA employees and the Complainant fails to state a claim on which relief can be granted, including failing to allege Respondent committed a standard of conduct violation in accordance with D.C. Code § 1-618.3(a). See, Answer at pg. 4.

The Board determines that it does not have jurisdiction over WMATA employees. WMATA is a tri-jurisdictional government agency, funded by the District of Columbia and jurisdictions in Maryland and Virginia. See, Answer at pg. 4. Pursuant to D.C. Code § 1-605.1 and PERB Board Rule 500.1, PERB’s jurisdiction is limited to the employees and agencies of the District of Columbia government. PERB does not have jurisdiction over those employed by the states of Virginia and Maryland. As WMATA is funded by the District of Columbia, Virginia, and Maryland, PERB does not have jurisdiction over either the Unfair Labor Practice Complaint or the Standard of Conduct Complaint.⁴

Therefore, Ms. Young’s Complaints are dismissed with prejudice.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Complaints filed by Jacqueline Young (“Ms. Young” or “Complainant”) are dismissed.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

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

November 18, 2011

(4) Engaging in a strike, or any other form of unauthorized work stoppage or slowdown, or in the case of a labor organization, its agents, or representatives condoning any such activity by failing to take affirmative action to prevent or stop it; and

(5) Engaging in a strike or refusal to handle goods or perform services, or threatening, coercing, or restraining any person with the object of forcing or requiring any person to cease, delay, or stop doing business with any other person or to force or to require an employer to recognize for recognition purposes a labor organization not recognized pursuant to the procedures set forth in § 1-617.06.

⁴ Complaints involving multiple jurisdictions are to be filed with the Federal Labor Relations Authority (FLRA), pursuant to Title VII of the Civil Service Reform Act, 5 U.S.C. § 7101 *et seq.*

CERTIFICATE OF SERVICE

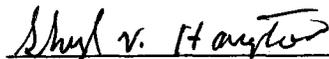
This is to certify that the attached Decision and Order in PERB Case No. 11-U-49 and 11-S-02 was transmitted via Fax and U.S. Mail to the following parties on this the 18th day of November 2011.

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