

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:	)	
	)	
John H. Williams,	)	
	)	
Complainant,	)	PERB Case No. 84-S-03
	)	Opinion No. 99
and	)	
	)	
Local 383, American Federation of	)	
Government Employees,	)	
	)	
Respondent.	)	
	)	

DECISION AND ORDER

On June 4, 1984, the Board issued PERB Opinion No. 82 in which it ordered Local 383, American Federation of Government Employees (AFGE) to provide John H. Williams (Complainant) with representation in his adverse action appeals before the District of Columbia Office of Employee Appeals (OEA). At the time he filed his classification and harassment grievances with OEA, the Complainant was a service fee member of a collective bargaining unit in the District of Columbia Department of Human Services (Employer) which was exclusively represented by AFGE. The Complainant was subsequently terminated by Employer. The Board ruled that Complainant was entitled to representation by AFGE in his grievances before OEA, but that he was not entitled to demand representation by an AFGE attorney.

On August 23, 1984, the Complainant wrote a letter to the Board contending that, although he signed a form authorizing AFGE to represent him, AFGE failed to do so because the record had been closed on July 1, 1984. The Complainant contended that he paid an attorney \$5,800 to represent him before OEA and requests that the Board order AFGE to reimburse him for all or a portion of these legal fees.

On September 10, 1984, AFGE filed a response to Complainant's letter to the Board. AFGE contends, essentially, that it complied with the Board's Decision and Order when it submitted a letter dated July 15, 1984 to the OEA Hearing Examiner assigned to Complainant's grievances which, by then, had been consolidated into one case. AFGE further contends that it followed up the letter with telephone calls and was informed by the Hearing Examiner that the evidence had already been heard in the matter and the record closed, although no decision had yet been rendered by OEA. AFGE asserts that Complainant's request for legal fees is an improper interpretation of the Board's Order.

The issue before the Board is whether or not Complainant is entitled to be reimbursed by AFGE for legal fees allegedly paid for representation before OEA.

PERB Opinion No. 82 clearly states that Complainant is not entitled to demand representation by an AFGE attorney. There appears to be no reasonable basis for Complainant's reliance on AFGE to pay his attorney fees. Previously, the Board's investigation revealed that the AFGE policy is that "representation from an attorney is only given after the National Vice-President reviews a case and feels the case requires an attorney."

It appears, and the OEA hearing examiner confirms, that AFGE made a good faith attempt to comply with the Board's Order to provide representation to Complainant. The Board's Order was issued on June 4, 1984. On June 12, 1984 Complainant signed an AFGE representation authorization form in accordance with AFGE internal procedures. On June 15, 1984 the President of AFGE, Local 383 wrote to the OEA hearing examiner informing him that AFGE now represented the Complainant.

The OEA hearing examiner further confirms that the President of AFGE, Local 383 talked to him concerning this matter in mid-June, 1984. The OEA hearing examiner stated that he closed the record on Complainant's case in late May, 1984 and rendered his decision on September 11, 1984, denying both the classification and harassment grievances and upholding the notice of termination. The Hearing Examiner also stated that Complainant was represented by an attorney on the termination notice, but represented himself on classification and harassment grievances. The Hearing Examiner stated that legal representation on the classification and harassment grievances, in his opinion, would not have altered the outcome.

After thoroughly investigating this matter the Board concludes that AFGE made a good faith effort to provide Complainant with representation as ordered in Opinion No. 82. The Complainant is not entitled to reimbursement for legal fees incurred in prosecuting his grievances before OEA. Accordingly, the request that the Board order AFGE to reimburse Complainant is denied.

O R D E R

IT IS ORDERED THAT;

The request for reimbursement of legal fees is denied.

BY ORDER OF THE DISTRICT OF COLUMBIA PUBLIC EMPLOYEE RELATIONS BOARD.  
January 8, 1985