

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:)	
)	
Andebrhan Berhe)	
)	PERB Case No. 19-U-08
Complainant)	
)	Opinion No. 1745
v.)	Motion for Reconsideration
)	
Washington Teachers' Union)	
)	
Respondent)	

DECISION AND ORDER

I. Statement of the Case

Before the Board is a Motion for Reconsideration (Motion) filed by Andebrhan Berhe, *pro se*, (Complainant) on October 1, 2019. The Complainant, a former member of the Washington Teachers' Union (WTU), seeks the Board's reconsideration of its Decision and Order, sustaining the Executive Director's July 8, 2019, administrative dismissal of the Complainant's unfair labor practice complaint (Complaint). The Executive Director dismissed the Complaint for untimeliness.¹ WTU opposes the Motion.²

For reasons stated herein, the Board denies Complainant's Motion.

II. Background

On April 15, 2019, the Complainant filed a Complaint,³ alleging that WTU committed unfair labor practices in violation of D.C. Official Code § 1-617.04(b)(1), (2), (3), and (5). The

¹ *Andebrhan Berhe v. Washington Teachers' Union*, Slip Op. No. 1723, PERB Case No. 19-U-08 (2019).

² In Respondent's Opposition to Complainant's Motion for Reconsideration, WTU contended that Complainant's Motion was untimely filed. Pursuant to Board Rule 559.2, a party may file a motion for reconsideration within fourteen (14) days after the issuance of the Board's decision. Complainant's Motion was filed On October 1, 2019, fourteen (14) days after the Board's decision and order was issued on September 16, 2019, and is therefore, timely.

³ The Complainant filed an Amended Complaint on May 30, 2019, in order to submit new evidence.

Complaint alleged that WTU refused to represent the Complainant as a part of the class of probationary teachers represented by WTU against District of Columbia Public Schools in PERB Case No. 14-U-02.⁴ On May 6, 2019, WTU moved to dismiss the Complaint for untimeliness.⁵ On July 8, 2019, the Executive Director dismissed the Complaint as untimely, pursuant to Board Rule 520.4 which requires an unfair labor practice complaint be filed no later than 120 days after the complainant first knew or should have known of the acts giving rise to the alleged violations.⁶

On August 5, 2019, the Complainant filed a motion for reconsideration of the Executive Director's dismissal. On September 16, 2019, the Board issued Opinion No. 1723, which upheld the Executive Director's dismissal.⁷ The Board found that the undisputed evidence showed that the Complainant knew or should have known of the acts giving rise to the alleged violation at the latest, on or about November 30, 2018.⁸ The Board determined that the Complaint's April 15, 2019, filing date was beyond the 120-day deadline required by Board Rule 520.4. The Board found that the Complainant did not provide good cause for the Complaint's untimely filing.⁹ The Board upheld the Executive Director's determination.¹⁰

III. Discussion

A motion for reconsideration cannot be based upon a mere disagreement with the Board's initial decision.¹¹ The Board has repeatedly held that a moving party must provide authority which compels reversal of the Board's decision.¹² Absent such authority, the Board will not overturn its decision.¹³

The Motion does not provide any legal authority which warrants reversal of the Board's finding that the Complaint was untimely filed. Instead, the Motion restates the arguments submitted to the Board in the Complaint that were considered and rejected by the Board in Opinion No. 1723. The Motion merely repeats the allegation that the Complainant was unaware of the act giving rise to the alleged violations—WTU's refusal to represent the Complainant—until March 22, 2019.¹⁴ As previously stated, the Board found that the undisputed evidence showed that the Complainant knew or should have known of WTU's actions at the latest on or

⁴ *Berhe*, Slip Op. No. 1723.

⁵ WTU filed an amended Motion to Dismiss and Answer to Amended Complaint on June 14, 2019.

⁶ *Fraternal Order of Police/Metro. Police Dep't Labor Comm. v. Metro. Police Dep't*, 65 D.C. Reg. 6430, Slip Op. No. 1661 at p. 2, PERB Case No. 17-U-26 (2018) (citing *Pitt v. D.C. Dep't of Corr.*, 59 D.C. Reg. 5554, Slip Op. No. 998 at p. 5, PERB Case No. 09-U-06 (2009)).

⁷ *Berhe*, Slip Op. No. 1723.

⁸ *Id.* at 3.

⁹ *Id.* at 4.

¹⁰ *Id.* at 4.

¹¹ *Washington Teachers' Union, Local #6 Am. Fed'n of Teachers v. Dist. of Columbia Pub. Schs.*, 65 D.C. Reg. 6927, Slip Op. No. 1657 at 1, PERB Case No. 14-U-02 (2018).

¹² *Id.*

¹³ *Id.*

¹⁴ Mot. for Recons. at 3.

about November 30, 2018.¹⁵ The Board finds that the Motion is based on a mere disagreement with the Board's initial decision that the Complaint was untimely filed and denies the Motion.

IV. Conclusion

The Motion for Reconsideration does not provide any authority to compel reversal of the Board's initial decision; therefore, the Complainant's Motion is denied.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Complainant's Motion for Reconsideration is denied.
2. Pursuant to Board Rule 559, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

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

Washington, D.C.

May 28, 2020

¹⁵*Id.* at 3.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 19-U-08, Opinion No. 1745 was sent by File and ServeXpress to the following parties on this the 4th day of June 2020.

Andebrhan Berhe
16356 Gangplank Lane
Woodbridge, VA 22191

Daniel M. Rosenthal, Esq.
James & Hoffman, P.C.
1130 Connecticut Avenue, NW, Suite 950
Washington, D.C. 20036

/s/ Merlin M. George, Esq.
Attorney Advisor