

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:)
)
AFGE, Representing Certain Employees in)
Unit 14,)
)
Complainant,)
)
and)
)
Government of the)
District of Columbia,)
)
Respondent.)
)
and)
)
AFSCME, Council 20 and)
LPNA, Representing Certain Employees)
in Compensation Unit 14,)
)
Complainants,)
)
and)
)
Government of the)
District of Columbia,)
Marion Barry, Jr., Mayor,)
)
Respondent.)
)
)

PERB Case Nos. 88-U-04 and
88-U-09
Opinion No. 199

DECISION AND ORDER

A Complaint and Answer were timely filed in PERB Case No. 88-U-04 by the American Federation of Government Employees (AFGE) and the Respondent, respectively.

The American Federation of State, County and Municipal Employees, Council 20 (AFSCME) and the Licensed Practical Nurses Association (LPNA) timely filed the Complaint in PERB Case No. 88-U-09. The Respondent's Answer to the Complaint was also timely filed.

Since the Complaints in the two cases allege that the same unfair labor practice was committed by the Respondent, based on an almost identical set of facts, the Board has consolidated these two matters.

The gravamen of the Complaints is that the Respondent unilaterally terminated premium payments to the optical and dental benefit plans provided for the employees in Compensation Unit XIV, following the expiration of the collective bargaining agreement, thereby violating the Comprehensive Merit Personnel Act of 1978 (CMPA), D.C. Code Sections 1-618.4(a)(1) and (5).

In its Answers, the Respondent cites language contained in the expired Compensation Agreement, in the dental and optical plan documents between the insurance carrier and the Complainant and in the "Implementing Instructions" signed by the parties, all of which the Respondent alleges served to release it from any obligation to make premium payments to the plans after the Agreement's expiration date. 1/ The Respondent also asserts that it informed the providers and the Complainants by letter dated August 26, 1987, of its intention to terminate premium payments effective October 10, 1987. 2/

The issue presented by these Complaints is whether the Respondent had an obligation to bargain with the Unions prior to terminating the payments for optical and dental benefits, notwithstanding the provisions of the parties' agreement, plan documents and the implementing instructions.

We conclude, for the reasons more fully set forth in the Board's Opinion No. 198, 3/ that the Respondent did not engage in conduct violative of D.C. Code Sections 1-618.4(a)(1) and (5), as alleged in these Complaints. The Board finds, as we did in the other case, that the Complainants knowingly and voluntarily negotiated and contracted for an agreement which unambiguously provided for the cessation of payments

1/ The pertinent provisions of the collective bargaining agreement and of the other relevant documents are set forth in the Appendix.

2/ The Respondent further avers that since Compensation Unit XIV is represented by three unions (AFGE, AFSCME, and LPNA) and only one union (AFGE) signed the Complaint in Case No. 88-U-04, there is doubt as to AFGE's standing to bring that action. Since the Board has consolidated these cases and the other unions representing the employees in Compensation Unit 14 are also parties to the Complaint in 88-U-09, the Board finds it unnecessary to address the Respondent's contentions regarding standing.

3/ See, All Unions Representing Employees in Compensation Units I and II and the District of Columbia, et al. Slip Op. 198, PERB Case No. 88 U-03 (December 1, 1988).

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for the optical and dental benefits upon the expiration of the collective bargaining agreement. 4/

Therefore, the Respondent has committed no unfair labor practices by its actions.

ORDER

It is ordered that this Complaint be dismissed.

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

December 1, 1988

4/ While AFGE did not sign the collective bargaining agreement, it did accept the benefits of the contract and is thus bound by its terms. See, American Federation of Government Employees and District of Columbia Office of Labor Relations and Collective Bargaining, 32 DCR 3354, Op. No. 111, PERB Case No. 85-U-14 (1985).

APPENDIX

Compensation Agreement

Article III, Optical and Dental Benefits:

8. The provisions of this Article shall become effective no earlier than the date of Council approval of this agreement (or passage of sixty (60) days after submission to the Council without action being taken therein), and the plans shall expire on September 30, 1987. Under no circumstances shall the District be obligated for premium payments beyond September 30, 1987.

Dental Agreement for District of Columbia Government Employees, Bargaining Units I and II

Article IX, Term:

The Dental Services Plan shall be in effect from the date of initial payment to September 30, 1987. Under no circumstances shall the Employer be obligated for premium payments beyond September 30, 1987.

Optical Agreement for D.C. Government Employees, Bargaining Units I and II

Article VIII, Termination:

Section 8:01 EFFECTIVE DATE: This Agreement shall become effective upon the effective date of the initial payment by the Employer and last until September 30, 1987. Under no circumstances shall the Employer be responsible for premium payments beyond September 30, 1987.

Compensation Units One and Two - Implementing Instructions For the Optical Benefit Program

- 1.2 Duration. The optical benefit plan shall be in effect from the effective date of initial payment to September 30, 1987. Under no circumstances shall the Employer be responsible for premium payments beyond September 30, 1987.

Compensation Units I and II (AFSCME) - Implementing Instructions For the Dental Service Program

- 1.2 Duration. The dental services plan shall be in effect from the effective date of initial payment to September 30, 1987. Under no circumstances shall the Employer be responsible for premium payments beyond September 30, 1987.

Compensation Units I And II (AFGE, NAGE/IBPO, CWA and LIUNA) Implementing Instructions For The Dental Service Program

- 1.2 Duration. The dental services plan shall be in effect from the effective date of initial payment to September 30, 1987. Under no circumstances shall the District be obligated for premium payments beyond September 30, 1987.