

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of: )

Carlease Madison Forbes, )

Complainant, )

v. )

Teamsters, Local Union 1714, )

and )

Teamsters Joint Council 55, )

Respondents. )

PERB Case No. 87-U-11  
Opinion No. 205

DECISION AND ORDER

On July 20, 1987, Carlease Madison Forbes (Complainant) filed an Unfair Labor Practice Complaint with the Public Employee Relations Board (Board) charging that Teamsters Local Union 1714 (the "Local") and Teamsters Joint Council 55 (the "Council") had engaged in conduct violative of the Comprehensive Merit Personnel Act of 1978 (CMPA), D.C. Code Section 1-618.4(b)(1) and (2), and D.C. Code Sections 1-618.6(a)(1) and (2). After receiving an extension of time, the Respondents on August 10, 1987 filed with the Board a consolidated response. <sup>1/</sup>

The Complaint alleges: (1) that Local officials distributed union membership cards and union dues deduction forms at roll call in violation of the collective bargaining agreement (Complaint, paragraph 6); (2) that Local officials distributed the Local newsletter during work time in work areas (Ibid); (3) that while addressing roll call Local officials took "cheap shots" at dissidents and other unions in violation of the collective bargaining agreement (Ibid); (4) that union officials have attended roll call "almost daily" and this "surveillance of management activities constitutes illegal interference, restraint and coercion" (Complaint, paragraph 8); (5) that a shop steward resigned due to "ideological differences" with Respondents (Complaint, paragraph 9); and (6) that employees are restrained

<sup>1/</sup> The Response also addressed allegations contained in PERB Cases No. 87-U-10 and 87-S-04, complaints which were also filed by Forbes against the Respondents.

and intimidated by the presence of officials at roll call (Complaint paragraph 9). The Complainant further avers that certain union and management letters coerced, restrained, and intimidated shop stewards and union members in the exercise of rights protected by D.C. Code Section 1-618.4(b)(1) and (2), 1-618.6(a)(1) and (2), and the current collective bargaining agreement (Complaint, paragraph 10). <sup>2/</sup> As relief, the Complainant seeks an order directing the Council to cease and desist from allowing Local 1714 to engage in these actions, and requiring the Council to post notices so stating.

The Consolidated Response of the Council and Local avers that the Complainant does not have standing to object to a Local representative's surveillance of management's activities; that the presence of a Local steward at roll call is not prohibited by the CMPA; that the Complainant does not have standing to complain on behalf of an anonymous shop steward; and that the Council should in any event be dismissed as a party because it is not the certified representative, it could not be found liable because it has not ratified the Local's conduct and the charges are procedurally defective as to the Council. <sup>3/</sup>

The issues before the Board are (1) whether an alleged breach of the collective bargaining agreement constitutes a per se statutory violation; and (2) whether the Local's distribution of literature during roll call could have the effect of restraining, coercing or intimidating employees in violation of D.C. Code Section 1-618.4(b)(1) and 1-618.6(a)(1) and (2) and (3) whether the presence of the Local's shop steward restrained and intimidated employees.

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<sup>2/</sup> These letters were also to management from the Local's assistant business agent requesting that individual Local members be restrained from addressing the employees convened for roll call and passing out materials critical of the Local, and a letter from management to the Complainant ordering him to refrain from distributing such materials. These letters are the subject of previously filed Unfair Labor Practice Complaints filed by the Complainant. (PERB Case Nos. 87-U-05 and 87-U-06). They are therefore dismissed from this case. Since the allegation of a violation of D.C. Code Section 1-618.4(b)(2) was predicated on those dismissed paragraph 10 allegations, it falls with them.

<sup>3/</sup> The Board agrees that the Complaint fails to allege the express ratification by the Council of alleged actions by the Local. Furthermore, as the Teamsters point out, Local 1714 is the certified bargaining agent, not Council 55. The Council is therefore dismissed as a party in this action.

The Board holds that the Complaint has failed to state a claim upon which relief can be granted and therefore dismisses it.

1. While some state and local laws make the breach of a collective bargaining agreement by employer or union an unfair labor practice, the CMPA contains no such provision, nor do we find such a necessary connection implicit in the Act. Under the CMPA, breach of a contract does not constitute a per se statutory violation.

The Board therefore concludes that the first set of allegations -- that Local representatives breached the contract by distributing membership cards and dues deduction forms during roll-call and Local newsletters in work areas during work time -- does not state a violation of D.C. Code Section 1-618.6. Whether such acts do in fact violate the collective bargaining agreement is a matter not within our jurisdiction. <sup>4/</sup>

2. The next set of claims concerns the presence of union representatives at roll call. The Local does not deny the allegation that the Local's business representative has attended roll call "almost daily". Taking as true the charge that the business representative has engaged in surveillance of management activities and the activities of the rank and file, the Local official's presence at roll call, standing alone, does not adversely affect employee rights. Despite the Complainant's contention that this conduct is "illegal" there is nothing in the cited provisions of the CMPA that proscribes the mere attendance of a union official during roll call. Specifically, absent a claim as to how, if at all, the presence of a business representative interfered, coerced or restrained employees in the exercise of their rights guaranteed by the CMPA, there is no basis for finding this conduct violative of the CMPA.

Similarly, the assertion that an unnamed shop steward resigned his union position due to "ideological differences" does charge any conduct by the Union that is forbidden by the Act. In sum, none of the Complainant's factual assertions state violations of the cited provisions of the CMPA.

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<sup>4/</sup> Additionally, D.C. Code Section 1-618.6 does not provide for a separate cause of action. Alleged violations of this section, which sets forth employee rights under the CMPA are raised under the unfair labor practice provisions of the Act D.C. Code Sec. 1-618.4. et seq.

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violations of the cited provisions of the CMPA.

ORDER

IT IS ORDERED THAT:

The Complaint is dismissed for failure to state a claim upon which relief can be granted under D.C. Code Sections 1-618.4 (b)(1) and (2) and 1-618.6(a)(1) and (2).

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

August 30, 1989