

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**

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In the Matter of:)	
)	
Fraternal Order of Police/ Metropolitan Police Department Labor Committee)	
)	PERB Case No. 18-U-33MFR
Petitioner)	
)	Opinion No. 1706
v.)	
)	Motion for Reconsideration
Metropolitan Police Department)	
)	
Respondent)	
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DECISION AND ORDER

I. Introduction

On October 10, 2017, an Arbitrator issued an Award that imposed a 150-day suspension on the Grievant. The 150-day suspension was 90-days greater than the recommendation of an adverse action panel. The Fraternal Order of Police/Metropolitan Police Department Labor Committee (“FOP”) appealed to the Board on March 23, 2018. The Board held that the Award was contrary to law and public policy and remanded the case to the Arbitrator.¹ On April 12, 2018, the Arbitrator issued an Award on Remand. The Award on Remand complied with the Board’s decision entitling the Grievant to 90-days of backpay.

On August 9, 2018, FOP filed an Unfair Labor Practice Complaint (“Complaint”). The Complaint alleged that the Metropolitan Police Department (“MPD”) refused to implement the Award on Remand.²

On August 29, 2018, MPD filed an Answer to the Complaint. In its Answer, MPD admitted that the Award on Remand was issued on April 12, 2018. Also, MPD admitted to its refusal to pay the Grievant in accordance with the Award on Remand.³

¹ *MPD v. FOP/MPD Labor Comm.*, 65 D.C. Reg. 6435, Slip Op. 1662, PERB Case 18-A-02 (2018).

² *FOP/MPD Labor Comm. v. MPD*, Slip Op. 1689, PERB Case 18-U-33.

³ *Id.* at 2.

On November 15, 2018, the Board issued a Decision and Order, finding that the record showed no disputed facts and deciding the matter on the pleadings. The Board held that MPD committed an unfair labor practice by refusing without justification to implement the Award.⁴

On November 29, 2018, MPD filed this Motion for Reconsideration. On December 5, 2018, FOP filed an Opposition to the Motion for Reconsideration.

The Motion for Reconsideration is denied, for the reasons stated herein.

II. Standard of Review

In a motion for reconsideration, the moving party must provide authority which compels the reversal of the initial decision.⁵ Absent such authority the Board will not overturn its decision.⁶

III. Discussion

MPD argues that the Board should reconsider its decision in PERB Case 18-U-33.⁷ MPD argues that the decision was improper as MPD did not have the opportunity to participate in mediation.

MPD's argument regarding mediation is baseless. Mediation is at the Board's discretion pursuant to PERB Rule 558.4. On September 14, 2018, the Board issued an order for a mediation conference. Afterward, the Board canceled the mediation conference. Neither party objected to the cancellation, nor did the cancellation prevent the parties from reaching a resolution voluntarily. Moreover, 402 days had elapsed since the Arbitrator issued the Award.⁸ Since the record did not reveal any disputed facts which necessitated a hearing the Board, concerned about any further delay, found that this matter was ripe for a decision. Even if MPD's argument with respect to mediation had any merit, it would not constitute authority compelling the reversal of the initial decision.

⁴ MPD Chief Peter Newsham was named as a party in the Unfair Labor Practice Complaint but was dismissed from the action by the Board in PERB Case No.18-U-33, Slip Op.1689.

⁵ *FOP/MPD Labor Comm. v. MPD*, 65 D.C. Reg. 6430, Slip Op. 1661, PERB Case No. 17-U-26 (20018). *See also, AFSCME District Council 20, Local 292 v. DCPS*, 62 D.C. Reg. 9200, Slip Op. No. 1518 at p. 3-4, PERB Case No, 12-E-10 (2015); *FOP/MPD Labor Comm. v. MPD*, Slip Op. No. 1554 at 8-9, PERB Case No. 11-U-17 (Nov. 19, 2015); *Rodriguez v. MPD*, 59 D.C. Reg. 4680, Slip Op. No. 954 at 12, PERB Case No. 06-U-38 (2010).

⁶ *FOP/MPD Labor Comm. v. MPD*, 65 D.C. Reg. 6430, Slip Op. 1661, PERB Case No. 17-U-26 (20018).

⁷ As a second basis for reconsideration, MPD asserts that the decision was premature since MPD had a pending Arbitration Review Request. On August 13, 2018, before filing an Answer, MPD filed an Arbitration Review Request ("PERB Case 18-A-16"). PERB Case 18-A-16 sought review of the Award on Remand at issue in the Unfair Labor Practice Complaint. The Board did not address PERB Case 18-A-16 until April 18, 2019. Therein, the Board dismissed PERB Case 18-A-16. Any error resulting from the sequencing of decisions in this matter is harmless. MPD was not prejudiced by the Board's sequencing of decisions. Consequently, MPD's argument is unpersuasive.

⁸ *FOP/MPD Labor Comm. v. MPD*, Slip Op. 1689 at 2, PERB Case 18-U-33.

IV. Conclusion

The Board finds that MPD's motion for reconsideration fails to assert any legal grounds that compel reversal of PERB Case 18-U-33. Therefore, the motion for reconsideration is denied.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Motion for Reconsideration is hereby denied.
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.**

By vote of Board Chairperson Charles Murphy, Members Ann Hoffman, Barbara Somson, Douglas Warshof, and Mary Anne Gibbons

April 18, 2019

Certificate of Service

This is to certify that the attached Decision and Order in PERB Case No. 18-U-33MFR, Opinion No. 1706 was sent by File and ServeXpress to the following parties on this the 19th day of April 2019.

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/s/

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