

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:)

Government of the District of)
Columbia,)

Complainant,)

and)

The American Federation of)
Government Employees, District 14;)
The American Federation of State,)
County and Municipal Employees,)
Council 20; The Laborers' Interna-)
tional Union of North America,)
Local 960; Communications Workers)
of American, Local 2336; and the)
National Assoc. of Government)
Employees/International Brotherhood)
of Police Officers,)

Respondents.)

PERB No. 86-U-03
Opinion No. 142

DECISION AND ORDER

On January 17, 1986 the District of Columbia Office of Labor Relations and Collective Bargaining (OLRCB), on behalf of the District of Columbia Government, filed an Unfair Labor Practice (ULP) Complaint with the District of Columbia Public Employee Relations Board (Board) against the five labor organizations which represent approximately 15,000 employees in collective bargaining for Compensation Units 1 and 2. The Complaint alleges that the five labor organizations, led by the American Federation of Government Employees (AFGE), violated Section 1704 of the Comprehensive Merit Personnel Act (CMPA) by refusing to participate in a meeting of a Health and Life Benefits Study Committee established by Article V of the collective bargaining agreement between the District government and the five labor organizations which was signed on October 10, 1984. OLRCB contends that by refusing to participate in the Study Committee, the labor organizations have interfered with, restrained and coerced other government employees represented by the Licensed Practical Nurses' Association (LPNA) and the Teamsters, Local 246 (Teamsters) and caused the District government to discriminate against these employees by excluding them from the Study Committee. As a remedy, OLRCB seeks a cease-and-desist order instructing the labor organizations to refrain from refusing to participate in the Study Committee.

On February 4, 1986 AFGE filed its Answer to the Complaint denying that it violated the CMA and contending that OLRCB took unilateral action to expand the membership of the Committee beyond the composition agreed to at the bargaining table. AFGE's position is that, after repeated unsuccessful attempts to resolve the dispute over the composition of the Study Committee, it has filed a demand for arbitration of the matter with the Federal Mediation and Conciliation Service (FMCS) and that the Board should defer to the Arbitrator as it has done in the past.

On February 6, 1986, the American Federation of State, County and Municipal Employees, Council 20 (AFSCME) filed its Answer to the Complaint denying that it violated the CMA and contending that OLRCB has failed to state a claim upon which relief can be granted by the Board. AFSCME contends that the issue is not ripe for consideration by the Board and requests that the Complaint be dismissed.

On February 25, 1986, Local 960 of the Laborers' International Union of North America (LIUNA) filed a letter with the Board stating that it is not aware of and has not taken part in any unfair conduct alleged by OLRCB. LIUNA requests that it be excluded from the case. The other two labor organizations named in the Complaint did not respond to the allegations by OLRCB.

The issue before the Board is whether to defer to the Arbitrator's resolution of the dispute concerning the composition of the collective bargaining agreement between the District government and the named labor organizations.

The central issue in this case is a dispute between OLRCB and the labor organizations, led principally by AFGE, over the size and composition of the Study Committee. The purpose of the Study Committee is to explore possible alternatives to the federal government health and life insurance plan which currently covers most unionized District government employees. Article V of the collective bargaining agreement states that the Committee shall consist of five (5) management representatives and five (5) union representatives. At the first meeting of the Committee on May 20, 1985, AFGE objected to OLRCB's attempt to include, on the union team, a representative of LPNA which represents employees covered by Compensation Unit 14. OLRCB later attempted to include the Teamsters on the union team after the Teamsters had replaced AFGE as representative of a portion of the employees covered by Compensation Units 1 and 2.

On August 15, 1985 AFGE filed a "class grievance" on behalf of all employees in Compensation Units 1 and 2 alleging a continuing violation of Article V by OLR CB based on its unilateral attempt to expand the size of the Committee and dictate the composition of the union team. By September 15, 1985 AFGE had requested that the Federal Mediation and Conciliation Service (FMCS) furnish a list of Arbitrators to resolve the issue.

AFGE's "class grievance" was processed under the negotiated grievance procedure in Article 30 of a collective bargaining agreement between AFGE, Local 1000 and the D.C. Department of Employment Services. This grievance procedure had previously been incorporated into Article XIII of the collective bargaining agreement covering Compensation Units 1 and 2 as the vehicle to resolve any alleged violations of the Compensation Agreement.

On January 30, 1986 OLR CB filed a demand for arbitration with FMCS alleging that AFGE failed to comply with Article V of the collective bargaining agreement. OLR CB requested that its demand for arbitration be consolidated with AFGE's arbitration hearing because of the close relationship of the issues raised in both demands for arbitration before FMCS.

A hearing was held before the FMCS appointed arbitrator on February 28, 1986. OLR CB's demand for consolidation was denied. On March 24, 1986, the Arbitrator issued an Award sustaining the grievance filed by AFGE. The Award prohibits OLR CB from changing the number and composition of the "Joint Labor-Management Health and Life Benefits Committee" established by Article V of the collective bargaining agreement. The Award also limits participation in the Committee to those labor organizations signing the collective bargaining agreement and orders OLR CB to make its designations to the Committee by April 14, 1986.

On April 17, 1981 the Board issued Opinion No. 10 in which it established a policy of deferring to the Arbitrator in cases where, as here, grievances and complaints involve dual jurisdiction of an arbitrator in a contract dispute and the Board in a statutory (ULP allegation) dispute arising out of the same factual circumstances. Nothing has been presented by OLR CB which justifies the Board's deviation from this sound policy. Accordingly, the Board dismisses the Complaint on the grounds that an Arbitrator has previously decided the issues raised in a fair proceeding and the award is consistent with the policies of the District of Columbia Law 2-139.

Decision and Order
Case No. 86-U-03
Opinion No. 142
Page 4

O R D E R

IT IS ORDERED THAT:

The Complaint is dismissed on the grounds that the issues raised have been previously decided by an Arbitrator in a proceeding to which the Board gives deference.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

May 30, 1986.