

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD

---

In The Matter Of: )

Doctors' Council of the District )  
of Columbia, )

Complainant, )

v. )

PERB Case No. 92-U-27  
Opinion No. 333

Government of the District of )  
Columbia, )

Department of Human Services, )

Department of Corrections, )

and )

Department of Public Works, )

Respondents. )

---

DECISION AND ORDER ON  
REQUEST FOR PRELIMINARY RELIEF

On September 21, 1992, the Doctors' Council of the District of Columbia (DCDC), pursuant to Board Rule 520.15, requested preliminary relief in conjunction with the filing of a Verified Unfair Labor Practice Complaint with the Public Employee Relations Board (Board). <sup>1/</sup> The Complaint alleges that the above-captioned Respondents violated D.C. Code Sec. 1-618.4(a)(1) and (5) and D.C.

---

<sup>1/</sup> Specifically, DCDC requested that the Board grant preliminary relief ordering Respondents to "rescind its announcement of furlough days and its individual furlough notices until it bargains with the Union over the impact and implementation of furloughs, that the Employer immediately cease and desist from dealing directly with individual employees, and that the Employer immediately provide relevant and necessary information to the Union." (DCDC letter dated September 21, 1992.)

Code Sec. 1-625.2(d) of the Comprehensive Merit Personnel Act (CMPA) by refusing to bargain over the impact and effects of any aspect of the furlough days to be imposed in FY' 93, pursuant to the Omnibus Budget Support Temporary Act of 1992, Title II (Act). The Complainant further alleges violation of the CMPA by Respondents' (1) refusal to apply contractual provisions to the implementation of furloughs, (2) direct dealing with employees for whom DCDC is the exclusive bargaining representative and (3) failure to provide information necessary and relevant to bargain over the furloughs.

On September 28, 1992, --pursuant to an expedited pleadings schedule requested by Complainants and granted by the Board-- the Office of Labor Relations and Collective Bargaining (OLRCB), on behalf of Respondents, filed an Answer to the Complaint denying that by the acts and conduct alleged in the Complaint, Respondents have committed any unfair labor practice. OLRB further asserted that the Board lacks the authority to grant the requested preliminary relief or, in the alternative, even if the Board possesses such authority, the facts and circumstances of the case do not support such relief. <sup>2/</sup>

For the reasons we articulated in AFSCME, D.C. Council 20, et

---

<sup>2/</sup> The Board's Authority to issue orders providing temporary preliminary relief is set forth in D.C. Code Sec. 1-618.13(b).

al., v. D.C. Government et al., \_\_\_\_\_ DCR \_\_\_\_\_, Slip Op No. 330, PERB Case No. 92-U-24 (1992), we deny AFSCME's request for preliminary relief as inappropriate in view of the competing mandates of the Act with which such relief may conflict. In this respect, DCDC's request does not meet the criteria articulated by the D.C. Court of Appeals in Automobile Workers v. NLRB, 449 F.2d 1046, 1051 (CA DC 1971) that "remedial purposes of the law will be served" by granting preliminary relief.

However, we shall investigate the Complaint as expeditiously investigation as is feasible, in accordance with Board Rule 501.1 and as set forth in our Order below.

ORDER

**IT IS HEREBY ORDERED THAT:**

1. The request for preliminary relief is denied.
2. The Notice of Hearing shall issue seven (7) days prior to the scheduled date of the hearing.
3. Following the hearing, the designated hearing examiner shall submit a report and recommendation to the Board not later than twenty (20) days following the conclusion of closing arguments.
4. Parties may file exceptions and briefs in support of the exceptions not later than seven (7) days after service of the Hearing Examiner's report and recommendation. A response or opposition to exceptions may be filed not later than five (5) days after service the exceptions.

Decision and Order  
PERB Case No. 92-U-27  
Page 4

**BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

Washington, D.C.

October 19, 1992

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 92-U-27 was hand-delivered and/or mailed (U.S. Mail) to the following parties on the 19th day of October, 1992.

Ms. Wendy L. Kahn, Esq.  
Zwerdling, Paul, Leigbig,  
Kahn, Thompson & Driesen  
1025 Connecticut Avenue, N.W.  
Suite 307  
Washington, D.C. 20036

U.S. Mail

William D. Schucker  
Office of Labor Relations  
and Collective Bargaining  
415-12th Street, N.W.  
Suite 400  
Washington, D.C. 20004

Hand-delivered

Karen Calmeise, Esq.  
Office of Labor Relations  
and Collective Bargaining  
415-12th Street, N.W.  
Suite 400  
Washington, D.C. 20004

Hand-delivered

Cyril F. Coombs, Esq.  
Office of Labor Relations  
and Collective Bargaining  
415-12th Street, N.W.  
Washington, D.C. 20004

Hand-delivered

Courtesy Copies:

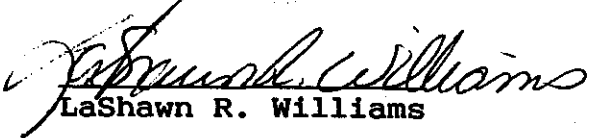
Debra McDowell  
Acting Director  
Office of Labor Relations  
and Collective Bargaining  
415-12th Street, N.W.  
Washington, D.C. 20004

Hand-delivered

Decision and Order  
PERB Case No. 92-U-27  
Page 6

Dr. Adrian Wilson  
President, Doctors Council of  
the District of Columbia  
1101 Vermont Avenue, N.W.  
Suite 405  
Washington, D.C. 20005

U.S. Mail

  
LaShawn R. Williams