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GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:)

Enoch J. Williams,)

Complainant,)

v.)

American Federation of State,
County and Municipal Employees,
District Council 20, Local 2290,)

Respondent.)

PERB Case Nos. 95-U-28
Opinion No. 454

DECISION AND ORDER

On September 1, 1995, an Unfair Labor Practice Complaint was filed in the above-captioned case on behalf of the Complainant Enoch Williams. Complainant is employed by the District of Columbia Washington Convention Center Authority (WCC) and is a member of the collective bargaining unit exclusively represented by the Respondent, the American Federation of State, County and Municipal Employees, District Council 20, Local 2290 (AFSCME). Complainant had filed a grievance concerning the establishment of his regular days off. The Complainant charges that the Respondent AFSCME has breached its duty to fairly represent him by failing to pursue his grievance to arbitration and in so doing committed an unfair labor practice under the Comprehensive Merit Personnel Act (CMPA), as codified under D.C. Code § 1-618.4(b)(1).^{1/}

While AFSCME does not dispute many of the allegations with respect to the claims against it, AFSCME denies that the allegations constitute the asserted unfair labor practice and moved to dismiss the Complaint.

^{1/} The Complainant initially named the Washington Convention Center Authority (WCC) as an additional Respondent; however, the Complaint allegations against WCC were administratively dismissed by the Executive Director as untimely. Upon review of the pleadings, we affirm the Executive Director's dismissal of the Complaint allegations against WCC as untimely filed.

After reviewing the pleadings in the light most favorable to Complainant, the Board finds, pursuant to Board Rule 520.10, that the Complaint does not give rise to any unfair labor practice or other claim within the Board's jurisdiction. Therefore, for the reasons that follow, we dismiss the Complaint.

Complainant bases his contention that AFSCME breached its duty to fairly represent him on his assertion that AFSCME "made no attempt to force the [Washington Convention] Center to resolve the problem" contained in his grievances and "refus[ed] to take his Grievances to arbitration". (Comp. at p. 7-8.) The remainder of the Complaint consists of alleged shortcomings in the manner in which AFSCME handled the Complainant's grievances with WCC representatives at the various steps prior to arbitration. These acts and conduct alone however, even if proven, do not constitute an unfair labor practice under the CMPA.

Regardless of the effectiveness of a union's representation in the handling or processing of a bargaining unit employee's grievance, such matters are within the discretion of the union as the bargaining unit's exclusive bargaining representative. Michael Tipps v. Fraternal Order of Police/Department of Corrections Labor Committee, Slip Op. 405, PERB Case No. 94-U-19 (1994).^{2/} Complainant does not allege that AFSCME's handling of his grievance or the decision not to arbitrate his grievance was discriminatory, arbitrary or in bad faith. The fact that there may have been a better approach to handling the Complainant's grievances or that the Complainant disagrees with the approach taken by AFSCME does not render AFSCME's actions or omissions a breach of the standard for its duty standard of fair representation, in violation of D.C. Code § 1-618.4(b)(1). Charles Bagenstose v. Washington Teachers' Union, Local 6, AFT, AFL-CIO, Slip Op. 355, PERB Case Nos. 90-S-01 and 90-U-02 (1993).

As there is no cognizable basis for this cause of action, the alleged violation must be dismissed. See, Gregory Miller v. American Federation Of Government Employees, Local 631, AFL-CIO and D.C. Department of Public Works, ___ DCR ___, Slip Op. No. 371, PERB Case Nos. 93-U-02 and 93-U-25 (1994). Therefore, based upon these pleadings, the Complaint is dismissed for failure to state acts or conduct that would constitute the alleged unfair labor practice.

^{2/} The Complainant does not contend that either AFSCME or WCC prevented him from pursuing and handling his grievances on his own, independent of AFSCME's representation.

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ORDER

IT IS HEREBY ORDERED THAT:

The Complaint is dismissed.

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

December 20, 1995