

**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. 21-E-06 |
| Petitioner |) | |
| v. |) | Opinion No. 1786 |
| |) | |
| Metropolitan Police Department |) | |
| |) | |
| Respondent |) | |

DECISION AND ORDER

I. Statement of the Case

On March 24, 2021, the Fraternal Order of Police/Metropolitan Police Department Labor Committee (FOP) filed a Petition for Enforcement (Petition). Pursuant to PERB Rule 560.1, FOP requests enforcement of PERB Case No. 20-A-01, Opinion No. 1731 (Opinion 1731). FOP alleges that the District of Columbia Metropolitan Police Department (MPD) has failed to comply with Opinion 1731. MPD opposes the Petition for Enforcement but does not contest the facts.¹ For the following reasons, the Petition for Enforcement is granted.

II. Background

On October 27, 2015, MPD held an adverse action hearing. Following the hearing MPD sustained the charges and terminated the Grievant. The Grievant appealed the termination to the Chief of Police. The appeal was denied. Thereafter, FOP invoked arbitration.

On September 16, 2019, the Arbitrator issued an Award that ordered MPD to reinstate the Grievant. On October 17, 2019, MPD filed an arbitration review request (Request) seeking review of the Award. In its Request, MPD argued that the Arbitrator exceeded his jurisdiction. FOP opposed the Request. On December 18, 2019, the Board found that MPD’s Request did not meet the requirements for reversing the Award. Specifically, the Board found that MPD did not meet the standard to show that the Arbitrator exceeded his jurisdiction. Accordingly, in Opinion 1731, the Board found no cause to modify, set aside, or remand the Award.

¹ On April 22, 2021, the Executive Director of PERB conducted a compliance review to investigate the allegations of the Petition. During the compliance review, MPD admitted that it had not reinstated the Grievant, provided back pay, or otherwise complied with the arbitration award and Opinion 1731.

MPD filed a Petition for Review in D.C. Superior Court. On February 2, 2021, the Hon. Florence Y. Pan affirmed the Board's decision and dismissed MPD's Petition for Review. MPD did not appeal the Superior Court's decision to the Court of Appeals.

On March 24, 2021, FOP filed the instant Petition for Enforcement. FOP contends the MPD has failed to comply with Opinion 1731 by refusing to reinstate Grievant and provide back pay and benefits as required by the Award. FOP is requesting that the Board enforce Opinion 1731 and compel MPD to comply with the terms of the Award.

III. The Union's Entitlement to Relief

The elements for granting a petition for enforcement are present herein. FOP prevailed at arbitration, and MPD filed an arbitration review request. The Board denied MPD's Request and issued Opinion 1731. MPD appealed Opinion 1731 to Superior Court and the Court affirmed Opinion 1731. MPD did not appeal the Superior Court's decision and did not comply with the Award. FOP then filed the instant Petition for Enforcement. MPD has admitted the material facts.

MPD's failure to comply with the terms of the Award is not based on a genuine dispute over the terms of the Award but is rather a flat refusal to comply with it. It is undisputed that the Board's order affirming the Award became final and that MPD did not comply with the Award after an unsuccessful petition for review to the D.C. Superior Court. No dispute over the terms of the Award has been raised and no reason for noncompliance has been suggested. Therefore, the Petition for Enforcement is granted. The Board will seek judicial enforcement of Opinion 1731, as provided under D.C. Official Code § 1-617.13(b). The Board will also seek costs and attorney fees incurred in seeking judicial enforcement of Opinion 1731.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Fraternal Order of Police/Metropolitan Police Department Labor Committee's petition for enforcement is granted.
2. Within seven (7) days from the issuance of this Decision and Order, the Metropolitan Police Department shall fully comply with the terms of the Award, if it has not already done so, and shall notify the Public Employee Relations Board in writing that it has complied.
3. The Board shall proceed with enforcement of Opinion 1731 pursuant to D.C. Official Code §§ 1-605.02(16) and 1-617.13(b) if full compliance with the Award is not made and documented within seven (7) days of the issuance of this Decision and Order.
4. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

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By vote of Board Chairperson Douglas Warshof and Members Barbara Somson, Mary Anne Gibbons, and Peter Winkler

Washington, D.C.
May 20, 2021

Certificate of Service

This is to certify that the attached Decision and Order in PERB Case No. 21-E-06, Opinion No. 1786 was sent by File and ServeXpress to the following parties on this the 20th day of May 2021.

Mark T. Viehmeyer
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/s/ Royale Simms

Public Employee Relations Board

APPEAL RIGHTS

Pursuant to Board Rule 559.2, a party may file a motion for reconsideration within fourteen (14) days, requesting the Board to reconsider its decision. Additionally, a final decision by the Board may be appealed to the District of Columbia Superior Court pursuant to D.C. Official Code §§ 1-605.2(12) and 1-617.13(c), which provides thirty (30) days after a Board decision is issued to file an appeal.