

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**

_____	)	
In the Matter of:	)	
	)	
Teamsters Local Union 639	)	
and 730,	)	
	)	
Complainant,	)	PERB Case No. 00-U-27
	)	
v.	)	Opinion No. 640
	)	
District of Columbia Public Schools,	)	
	)	
Respondent.	)	
_____	)	

**DECISION AND ORDER**

This matter involves an unfair labor practice complaint filed by Teamsters, Local Unions 639 and 730 (Complainant or Teamsters). The Complainant is alleging that the District of Columbia Board of Education (DCPS or Respondent) has committed an unfair labor practice by failing to implement an arbitration award.

An arbitration award issued January 11, 2000, rescinded the termination of a bargaining unit employee and directed the employee's immediate reinstatement to his job with back pay and restoration of benefits. DCPS did not seek review of the award. However, to date, the employee has not been reinstated. As a result, the Teamsters filed this complaint.

On December 12, 1997, DCPS terminated the grievant who was employed as a custodian at Stevens Elementary School. In an arbitration award issued January 11, 2000, the arbitrator ruled that "[t]he grievant, Tony Rich, was not discharged for just cause." (Award at p. 13). As a result, he rescinded the termination and directed that the grievant "be promptly reinstated to his former position with full back pay and without loss of seniority." Id. The arbitrator added that he would hold the record open for 60 days in order "to dispose of any problems that might be encountered by the parties in the administration of [the] award." Id. DCPS did not appeal the award.

On May 4, 2000, the Teamsters filed an unfair labor practice complaint alleging that DCPS

violated D. C. Code §1-618.4(a)(1), (3) and (5), by failing to implement the arbitration award. (Compl. at p. 1). Specifically, the Teamsters claim that DCPS has not yet reinstated Tony Rich nor paid him any back pay. DCPS filed an answer to the complaint.

DCPS concedes that the employee has not yet been returned to his former position. However, DCPS asserts that it has not violated the Comprehensive Merit Personnel Act (CMPA). The Teamsters contend that the award requires that the grievant be reinstated at his former school. DCPS argues that the award merely requires the grievant be returned to a position as a school maintenance worker at any school. Also, DCPS claims it identified a vacant position at another school and directed the grievant's reinstatement effective May 15, 2000. However, DCPS contends that they were informed by the grievant that he needed another two weeks before leaving his current job. (Answer at p. 5). In addition, DCPS asks that the Complaint be dismissed for failure to state an unfair labor practice for which relief can be granted. Also, DCPS requests that the Board assess the Teamsters for the costs incurred by DCPS in "responding to this frivolous complaint occasioned by the Complainant's false statements." (Answer at p.8).

We think that there may be some merit to the Teamsters' Complaint. However, we are not prepared to rule on this matter at this time. Instead, we will hold this matter in abeyance for thirty days. During this thirty day period, we urge the parties to seek clarification of the award from the arbitrator. Upon request of either party, we will consider this matter anew after the expiration of the thirty day period.

### **ORDER**

#### **IT IS HEREBY ORDERED THAT:**

1. The Unfair Labor Practice Complaint be held in abeyance for thirty days.
2. The Teamsters, Local Unions 639 and 730, shall notify the Public Employee Relations Board in writing within ten days after the expiration of the thirty day period noted in paragraph one, concerning the status of this matter.

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

November 15, 2000