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**Government of the District of Columbia
Public Employee Relations Board**

In the Matter of:)	
)	
Clarence Sykes)	
)	
Petitioner)	PERB Case No. 18-U-37
)	
v.)	Opinion No. 1701
)	
District Department of Transportation)	Motion for Reconsideration
and)	
American Federation of Government)	
Employees Local 1975)	
)	
Respondent)	

DECISION AND ORDER

I. Introduction

On December 28, 2018, Clarence Sykes (“Petitioner”) filed a Motion for Reconsideration of the December 4, 2018 Executive Director's administrative dismissal of an unfair labor practice complaint (“Complaint”). The Petitioner claims that the Executive Director erred in finding that the Complaint was untimely. The Motion for Reconsideration is before the Board for disposition. The Board denies the Motion for Reconsideration for the following reasons.

II. Statement of Case

The Petitioner works at the District Department of Transportation (“DDOT”). In September 2017 DDOT denied the Petitioner’s request to use paid sick leave. The Petitioner has used leave without pay and claims the denial of paid sick leave violates the CBA and various statutes outside of the Board’s jurisdiction.¹ The administrative dismissal denied claims related to

¹ The Petitioner alleges a violation of D.C Code Official Code § 32-531(b)(5), the D.C. Accrued Sick and Safe Leave Act. The D.C. Accrued Sick and Safe Leave Act guarantees eligible employees the right to use paid sick leave for a... mental illness, injury, or medical condition of the employee. DDOT admits to violating the act in its Answer but the administrative and civil remedies for this violation as defined in D.C. Official Code § 32–531.12 and § 32-1308.01, are not within the jurisdiction of the Board.

both respondents, DDOT and the AFGE Local 1975. The Motion for Reconsideration only request the Board's reconsideration of claims related to DDOT. The Complaint alleged conduct that occurred in September 2017, but the Complaint was not filed until September 2018.

III. Standard of Review

A mere disagreement with the Executive Director's decision is not a valid basis for the Board to grant a motion for reconsideration.² Moreover, the Board will not grant a motion for reconsideration that does not assert any legal grounds that would compel overturning an Executive Director's dismissal.³ The Board will uphold an Executive Director's dismissal where the decision is reasonable and supported by the facts and PERB precedent.⁴

IV. Discussion

Board Rule 520.4 states that “[u]nfair labor practice complaints shall be filed not later than 120 days after the date on which the alleged violations occurred.” Herein, the Petitioner filed the Complaint on September 21, 2018, a year after the alleged violation. Therefore, the complaint was untimely.

Petitioner argues that the agency committed a continuing violation; the Board does not find this argument persuasive in the absence of specific violations. The Complaint fails to allege violations that show the agency repeatedly wronged the Petitioner during the limitations period, that the activity was more than a discrete act, and that the nature of the act was unknown in the first instance.⁵ The Board finds that Petitioner has failed to assert any legal grounds that would compel overturning the Executive Director's dismissal and that her decision is reasonable and supported by PERB precedent.

V. Conclusion

Petitioner's Motion for Reconsideration does not provide any authority that compels reversal of the Executive Director's decision. The Motion for Reconsideration is hereby denied.

²*Johnson v. District of Columbia and MPD*, 63 D.C. Reg. 6485, Slip Op. 1567 at 2, PERB Case No. 15-U-40 (2016); *Steele v. AFGE Local 383*, 61 DCR 12373, Slip Op. 1492 at 3, PERB Case No. 14-U-16 (2014).

³ *Johnson*, Slip Op. 1567 at 2.

⁴ *Id.*

⁵ *See, MPD v. FOP/MPD Labor Committee*, 62 D.C. Reg. 14606, Slip Op. 1535, PERB Case No. 09-U-48(R) (2015).

ORDER

IT IS HEREBY ORDERED THAT:

1. The Motion for Reconsideration is hereby denied.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

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

By unanimous vote of Board Chairperson Charles Murphy, Members Ann Hoffman, Barbara Somson, Douglas Warshof, and Mary Anne Gibbons

March 21, 2019

Certificate of Service

This is to certify that the attached Decision and Order in PERB Case No. 18-U-37, Opinion No. 1701 was sent by U.S. Mail to the following parties on this the 25th day of March 2019.

Clarence Sykes
Petitioner, *Pro Se*
2251 Shannon Place, SE
Washington, D.C. 20020

This is to certify that the attached Decision and Order in PERB Case No. 18-U-37, Opinion No. 1701 was sent by File and ServeXpress to the following parties on this the 25th day of March 2019.

Gina Walton
President
American Federation of Government
Employees, Local 1975, AFL-CIO
95 M Street, SW
2nd Floor
Washington, DC 20024

Nana Bailey-Thomas
Office of General Counsel
District Department of Transportation
55 M Street, SE
7th Floor
Washington, D.C. 20003