



the close of business on December 27, 1991. The Appeal, however, was not filed in this office until March 3, 1992. There is no contention contained in your Appeal or documentation of any retraction by D.C. General Hospital of any of their attached written communications to you asserting the non-negotiability of the proposals contained in your Appeal.

Unfortunately, no extensions may be granted for the filing of documents that initiate an action before the Board. Board Rule 501.3. Cf., District of Columbia Metropolitan Police Department and Fraternal Order of Police/Metropolitan Police Department Labor Committee, 39 DCR 1931, Slip Op. No. 286, PERB Case No. 87-A-07 (1992) and District of Columbia Metropolitan Police Department and Fraternal Order of Police, MPD Labor Committee, 39 DCR 6232, Slip Op. No. 282 at n.2, PERB Case No. 87-A-04 (1991).

In its Motion, IBPO completely ignores Board precedents cited above in the Executive Director's letter, which we affirm are controlling with respect to determining the timeliness "of documents that initiate an action before the Board." IBPO's arguments present no basis for distinguishing or abandoning our prior holdings under the circumstances of this case.

IBPO's Motion rests principally on its assertion that the Executive Director inaccurately determined DCGH's position during negotiations as constituting an assertion that the proposals contained in IBPO's Appeal were nonnegotiable. Upon review of the record, however, IBPO's contention appears to be somewhat disingenuous. The Executive Director's determination of DCGH's position is merely reflective of IBPO's understanding as set forth in IBPO's February 12, 1992 response to DCGH's November 27, 1991 written correspondence of nonnegotiability. In its response, IBPO confirmed its "understanding from [DCGH's November 27, 1991] correspondence that the Hospital's position on the [ ] Union proposals is that they are not mandatory subjects of bargaining [.]" IBPO offers no reason why the Board should now adopt an interpretation of DCGH's correspondence incongruous with IBPO's understanding of the parties' written communications at the time they were made. <sup>1/</sup>

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<sup>1/</sup> IBPO contends in its Motion for Reconsideration that notwithstanding the Executive Director's determination that DCGH's November 27, 1991 correspondence served as written notice of  
(continued...)

The Executive Director's letter clearly, succinctly and soundly sets forth the basis for the dismissal of IBPO's Appeal. IBPO does not raise any arguments in its Motion that warrant reversal of her administrative decision to dismiss and, therefore, we affirm it. <sup>2/</sup>

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<sup>1</sup>(...continued)  
nonnegotiability, only four of the 32 proposals contained in its appeal were addressed by DCGH in its letter. However, as noted in the text, the Executive Director's determination with respect to the entire Appeal turned on IBPO's February 12, 1992 correspondence which was expressly in response to DCGH's November 27, 1991 correspondence--which indeed addressed only four of the 28 proposals contained in IBPO's Appeal-- as well as DCGH's "Management Response to IBPO Non-comp Proposals received by [IBPO] on or about December 9, 1991." This latter document addressed all proposals contained in IBPO's appeal by declaring them as "not a mandatory subjects of negotiation." Therefore, with respect to the proposals set forth for the first time in DCGH's "Management Response to IBPO's Non-comp Proposals", IBPO's Appeal should have been filed no later than the close of business on January 8, 1992. Thus IBPO's entire Appeal, filed March 3, 1992, remains clearly out of time.

<sup>2/</sup> IBPO takes issue with the fact that the Board has yet to rule on its "Motion to Exclude Agency Brief and for Summary Judgement" but, nevertheless, the Executive Director's letter dismissing IBPO's Appeal states that she reviewed DCGH's brief in reaching her conclusion that the Appeal was untimely. IBPO asserts that the "PERB's actions of failing to decide [IBPO's] Motion grounded upon untimeliness of filing of the Agency's Brief and subsequent referral to the Agency Brief in dismissing the IBPO's Negotiability Appeal are ironic and quite inconsistent." (Mot. at 5.) IBPO's objection is misplaced. Whether or not an action has been timely initiated before the Board is a threshold issue concerning the authority of the Board to consider a matter. IBPO's Motion to Exclude Agency's Brief and for Summary Judgement is clearly not a document of this nature as prescribed by Board Rule 501.1. Moreover, the administrative dismissal of IBPO's Appeal turned upon documents timely submitted prior to the Board's solicitation of the subject "Agency's Brief" pursuant to Board Rule 532.4(b).

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ORDER

**IT IS HEREBY ORDERED THAT:**

The Motion for Reconsideration is denied.

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

Washington, D.C.

October 27, 1992

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CERTIFICATE OF SERVICE

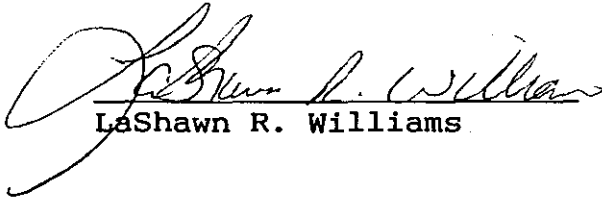
This is to certify that the attached Decision and Order in PERB Case No. 92-N-02 was hand-delivered and/or mailed (U.S. Mail) to the following parties on the 27th day of October, 1992.

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