

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:)	
)	
Sylvia Cephas,)	
)	
Complainant,)	PERB Case No. 01-U-17
)	
v.)	Opinion No. 678
)	
)	
Fraternal Order of Police/Department of Corrections Labor Committee,)	
)	
Respondent.)	
)	
)	

DECISION AND ORDER

The Complainant filed an Unfair Labor Practice Complaint and a Motion for Preliminary Relief. The Complainant claims that the Fraternal Order of Police/Department of Corrections Labor Committee ("FOP" or "Union") violated D.C. Code §1-617.04(a) (1) and (4) and D.C. Code § 1-617.04(b)(1) and (2) (2001 ed.).¹ Specifically, the Complainant alleges that: (a) FOP has not engaged in good faith bargaining on behalf of the entire membership;² (b) FOP has neglected union members and provided incompetent representation; (c) an independent investigation has revealed that FOP has used union funds to pay personal expenses; (d) FOP has made false statements; (e) shop stewards

¹Prior codification at D.C. Code §1-618.4(a)(1) and (4) and D.C. Code §1-618.4(b)(1) and (2) (1981 ed.).

²In support of this allegation, the Complainant asserted that corrections officers have not received an increase in compensation (i.e. pay raise, cost of living increase, or bonus) in over six years. In addition, she claims that overtime was given to selected officers five or seven days a week.

were selected without holding an election; and (f) the election committee elected persons of their choice. In addition, the Complainant claims that FOP has failed to provide her with adequate representation when she has had problems with management. Also, she asserts that Warden Patricia Britton has abused her authority. Finally, the Complainant contends that FOP's shop stewards are not providing adequate representation to rank-and-file members because they are receiving benefits from management.

After reviewing the pleadings, the Executive Director determined that the Complaint allegations failed to state a basis for a claim under the Comprehensive Merit Personnel Act (CMPA). Specifically, the Executive Director concluded that the Complainant failed to assert or demonstrate that the handling of her grievance(s) was arbitrary, discriminatory, or the product of bad faith on the part of FOP. As a result, the Executive Director found that the Complaint did not contain allegations which were sufficient to support a cause of action under D.C. Code Sections 1-617.03 or 1-617.04(b) (2001).³ In addition, the Executive Director determined that the Complainant lacked standing to assert some of her allegations. Finally, the Complainant alleged that FOP violated D.C. Code §1-617.04 (a).⁴ However, the Executive Director informed the Complainant that this subsection of the CMPA concerns the conduct of District agencies and not labor organizations.

In light of the above, the Executive Director dismissed the Complaint. The Complainant filed a Motion for Reconsideration, requesting that the Board reverse the Executive Director's decision. In Slip Op. No. 676, the Board denied the Complainant's Motion for Reconsideration concerning all the unfair labor practice allegations, except those regarding the election of shop stewards and the actions of the election committee. In addition, the Board determined that the Complainant's submission regarding the standards of conduct allegations was deficient. As a result, the Board suspended the processing of the standards of conduct allegations (concerning the election of shop stewards and the actions of the election committee), until the Complainant had an opportunity to cure the filing deficiency. Furthermore, the Board directed that the Complainant cure her filing deficiency within ten (10) days of the Decision and Order. The Board noted that if the Complainant failed to cure the filing deficiency, the standards of conduct allegations would be dismissed. The Complainant failed to cure the filing deficiency within the ten (10) day period noted in Slip Op. No. 676. As a result, this matter is now before the Board for disposition.

In Slip Op. No. 676, the Board noted that the arguments raised in the Complainant's Motion for Reconsideration, were previously considered and addressed by the Executive Director. Therefore, the Board observed that it had to determine whether the Executive Director erred in dismissing the Complaint.

³Prior codification at D.C. Code §1-618.3 (1981) and D.C. Code §1-618.4(b) (1981 ed.).

⁴Prior codification at D.C. Code §1-618.4(a) (1981 ed.).

After reviewing the Complainant's Motion for Reconsideration, we determined that the Complainant's basis for seeking review of the dismissal of the unfair labor practice allegations, amounted to nothing more than a disagreement with the Executive Director's findings. Moreover, we concluded that the Executive Director's decision (concerning the unfair labor practice allegations), was reasonable and supported by Board precedent. In view of the above, we found that a mere disagreement with the Executive Director's decision was not a sufficient basis for reversing that decision.

As to the allegations regarding alleged improprieties concerning the election of shop stewards, we found that these allegations may involve standards of conduct violations. In addition, we noted that "when a Complainant proceeds pro se in an unfair labor practice proceeding before the Board, the Board will not impose strict compliance with Board Rules ... as a basis of dismissing the complaint." Slip Op. No. 676 at p. 6. (Citing, Mack v. FOP/DOC Labor Committee, 49 DCR 1149, Slip Op. No. 443 at p. 2, PERB Case No. 95-U-16 (1995); and Willard G. Taylor v. University of the District of Columbia Faculty Association/NEA, 41 DCR 6687, Slip Op. No. 324, PERB Case No 90-U-24 (1992)). Therefore, despite the fact that the Complainant captioned and asserted her cause of action to be an unfair labor practice, the Board decided that it would not dismiss the alleged standards of conduct allegations concerning the election of shop stewards. The reason for this determination was that the Board did not notify the Complainant of the defect concerning the asserted standards of conduct cause of action as required by Board Rule 501.13. In view of the above, the Board provided the Complainant with notice of the filing defect. In addition, the Board directed the Complainant to comply with the more appropriate standards of conduct cause of action reflected by the allegations regarding the election of shop stewards. (See, Board Rule 544 and D.C. Code §1-617.03 (2001)). Also, the Board informed the Complainant that it would suspend processing the standards of conduct allegations until the Complainant cured the filing deficiency. Furthermore, pursuant to Board Rule 501.13, the Complainant was directed to cure the filing deficiency within ten (10) days of service of the Decision and Order (Slip Op. No. 676).⁵ In our Order, we made it clear that failure to cure the filing deficiency in accordance with the Decision and Order, would result in the dismissal of the standards of conduct allegations.

In the present case, the Board's Decision and Order was issued on April 17, 2002.⁶ Therefore, pursuant to Board Rule 501.13 and paragraph 3 of the Board's Order, the Complainant

⁵The Board noted that once the filing deficiency was cured, the Complaint would be assigned a new standards of conduct case number. However, the Complaint would retain the original filing date.

⁶The Decision and Order was originally transmitted to the parties on April 16, 2002. Unfortunately, the opinion number assigned to this case was not accurate. As a result, a "corrected copy" of the Decision and Order was transmitted to the parties on April 17, 2002.

was required to cure the filing deficiency by May 6, 2002.⁷ However, to date, the Complainant has not filed a revised standards of conduct complaint. Therefore, consistent with the Board's Order in Slip Op. No. 676, the remaining standards of conduct allegations are dismissed. In view of the above, we dismiss the Complainant's standards of conduct allegations concerning the election of shop stewards and the actions of the election committee.

ORDER

IT IS HEREBY ORDERED THAT:

1. The standards of conduct allegations concerning the election of shop stewards and the actions of the election committee, are dismissed.
2. *The Complaint is dismissed in its entirety.*
3. 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.

May 24, 2002

⁷Board Rule 501.5, provides that when "computing any period of time prescribed by [the Board Rules], the day on which the event occurs from which time begins to run shall not be included. ... If a prescribed time period is less than eleven (11) days, Saturdays, Sundays and District of Columbia holidays shall be excluded from the computation." In addition, Board Rule 501.4, provides that "[w]henver a period of time is measured from the service of a [document] and service is by mail, five (5) days shall be added to the prescribed period." In the present case, the Board's Decision and Order was served by mail on April 17, 2002. Therefore, the Complainant had ten (10) business days and an additional five (5) calendar days, within which to submit her revised complaint.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 01-U-17 was transmitted via U.S. Mail to the following parties on this 24th day of May 2002.

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Sheryl Harrington
Secretary