

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 formal 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

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In the Matter of:)
)
American Federation of Government)
Employees, Local 2725, AFL-CIO,)
)
	Complainant,)
)
v.)
)
District of Columbia)
Housing Authority,)
)
	Respondent.)
<hr/>)

PERB Case No. 96-U-11
Opinion No. 487

DECISION AND ORDER

The facts and issues that gave rise to this case are set out by the Hearing Examiner in his Report and Recommendation.^{1/} The Hearing Examiner found that the District of Columbia Housing Authority (DCHA) violated the Comprehensive Merit Personnel Act (CMPA), as codified under D.C. Code § 1-618.4(a)(1). Specifically, the Hearing Examiner found that DCHA interfered with the rights of a bargaining unit employee by telling him that he must cease his activities on behalf of his representative the American Federation of Government Employees, Local 2725, AFL-CIO (AFGE) to be considered for career advancement. With respect to an alleged violation of D.C. Code § 1-618.4(a)(3), the Hearing Examiner concluded that the evidence failed to establish that unfair labor practice. The Hearing Examiner found that while agents of DCHA may have intended to discriminate against the employee because of his union activities, DCHA was in no position to carry out the threat at the time.^{2/} The Hearing Examiner recommended that DCHA be

^{1/} The Hearing Examiner's Report and Recommendation is attached as an appendix to this Opinion.

^{2/} D.C. Code § 1-618.4(a)(3) provides, in pertinent part, as follows:

The District, its agents, and representatives are prohibited from: Discriminating in regard to hiring or tenure of employment or any term and condition of employment to encourage or discourage membership in any labor organization"

(continued...)

ordered to cease and desist from threatening employees in this manner and that a Notice to this effect be posted which also sets forth the rights of employees under the CMPA.

No exceptions were filed by either party to the findings, conclusions and recommendations made by the Hearing Examiner.

Pursuant to D.C. Code § 1-605.2(3) and Board Rule 520.14, the Board has reviewed the findings, conclusions and recommendations of the Hearing Examiner and the entire record. The Board hereby adopts the Hearing Examiner's conclusion that DCHA violated D.C. Code § 1-618.4(a)(1), by threatening to condition a bargaining unit employee's career advancement on cessation of his activities with AFGE (as discussed in the Hearing Examiner's Report). See, e.g., American Federation of State, County and Municipal Employees, District Council 20, Local 2776, AFL-CIO v. D.C. Dep't of Finance and Revenue, 37 DCR 5658, Slip Op. No. 245, PERB Case No. 89-U-02 (1990) and Teamsters, Local Union No. 1714 a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO v. District Of Columbia Department of Corrections, 43 DCR 2661, Slip Op. No. 360, PERB Case No. 92-U-09 (1993) We also adopt the Hearing Examiner's recommended relief.

ORDER

IT IS HEREBY ORDERED THAT:

1. The District of Columbia Housing Authority (DCHA) shall cease and desist from threatening to condition employees' career advancement on ceasing their activity on behalf of the American Federation of Government Employees, Local 2725, AFL-CIO (AFGE).
2. DCHA shall cease and desist from interfering, in any like and related manner, with the rights guaranteed employees and their exclusive bargaining representatives by the Comprehensive Merit Personnel Act, as set forth below.

All employees shall have the right:

- (1) To organize a labor organization free from interference, restraint, or coercion;

²(...continued)

The Hearing Examiner found that there was no evidence that DCHA's unlawful threat affected any term or condition of the employee's employment, an essential element of the unfair labor practice. (R&R at 6.)

(2) To form, join, or assist any labor organization or to refrain from such activity; and

(3) To bargain collectively through representatives of their own choosing as provided in this subchapter.

D.C. Code § 1-618.6(a)

3. DCHA shall post conspicuously within ten (10) days from the service of this Opinion the attached Notice at all of the affected work sites for thirty (30) consecutive days.

4. DCHA shall notify the Public Employee Relations Board (PERB), in writing, within fourteen (14) days from the date of this Order that the Notices have been posted and as to the steps it has taken to comply with the directives in paragraphs 1 and 2 of this Order.

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

September 27, 1996



Public
Employee
Relations
Board

Government of the
District of Columbia



415 Twelfth Street, N.W.
Washington, D.C. 20004
[202] 727-1822/23
Fax: [202] 727-9116

NOTICE

TO ALL EMPLOYEES OF THE DISTRICT OF COLUMBIA HOUSING AUTHORITY REPRESENTED BY THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 2725, AFL-CIO, THIS OFFICIAL NOTICE IS POSTED BY ORDER OF THE DISTRICT OF COLUMBIA PUBLIC EMPLOYEE RELATIONS BOARD PURSUANT TO ITS DECISION AND ORDER IN SLIP OPINION NO. 487, PERB CASE NO. 96-U-11 (September 27, 1996).

WE HEREBY NOTIFY our employees that the District of Columbia Public Employee Relations Board has found that we violated the law and has ordered us to post this notice.

WE WILL cease and desist from threatening to condition employees' career advancement on ceasing their activity on behalf of the American Federation of Government Employees, Local 2725, AFL-CIO (AFGE).

WE WILL NOT in any like and related manner, interfere with the rights guaranteed employees and their exclusive bargaining representatives by the Comprehensive Merit Personnel Act, as set forth below.

All employees shall have the right:

- (1) To organize a labor organization free from interference, restraint, or coercion;
- (2) To form, join, or assist any labor organization or to refrain from such activity; and
- (3) To bargain collectively through representatives of their own choosing as provided in this subchapter.

D.C. Code § 1-618.6(a)

District of Columbia
Housing Authority

Date: _____ By: _____
(Receiver)

This Notice must remain posted for thirty (30) consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning the Notice or compliance with any of its provisions, they may communicate directly with the Public Employee Relations Board, whose address is: 415-12th Street, N.W. Room 309, Washington, D.C. 20006. Phone 727-1822.