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

In the Matter of:)	
)	
)	
Fraternal Order of Police/ Metropolitan)	
Police Department Labor Committee)	
(Ofc. Taunya Johnson))	PERB Case No. 19-E-03
)	
Petitioner)	Opinion No. 1710
v.)	
)	
Metropolitan Police Department)	
)	
Respondent)	

DECISION AND ORDER

I. Introduction

On March 29, 2019, pursuant to Rule 560.1, the Fraternal Order of Police/Metropolitan Police Department Labor Committee (“FOP”) filed a Petition for Enforcement related to PERB Case No. 17-A-09, Slip Op. No. 1644. FOP alleges that MPD has failed to comply with Slip Opinion 1644, which was issued on October 19, 2017, regarding an arbitration award in which FOP prevailed on behalf of Taunya Johnson (“Grievant”). FOP is requesting the Board to enforce its Decision and Order of October 19, 2017. MPD opposes FOP's Petition for Enforcement but does not contest the facts. Thus, as the uncontested facts establish the Union's entitlement to relief, the Petition for Enforcement is granted.

II. Statement of the Case

On January 24, 2011, MPD provided the Grievant with Notice of Final Adverse Action finding the Grievant guilty of untruthfulness and failure to obey orders. The Grievant’s appeal to the Chief of Police was denied and the FOP invoked arbitration.¹

¹ *MPD v. FOP/MPD Labor Comm. ex rel. Johnson*, 64 D.C. Reg. 13401, Slip Op. 1644 at 2, PERB Case No. 17-A-09 (2017).

On July 26, 2017, the Arbitrator issued an Award that ordered MPD to reinstate and make the Grievant whole for any loss of pay or other benefits resulting from her removal, less a 60-day suspension without pay.

On July 26, 2017, MPD filed an arbitration review request (“Request”) seeking review of the July 26, 2017 Award. FOP opposed the Request.

In its Request, MPD asserted that the Arbitrator misanalysed the *Douglas* Factors² by failing to balance the factors with each other and relying on a single factor to determine that termination was not an appropriate remedy. Additionally, MPD argued that the Arbitrator failed to consider the adverse action panel’s reasonableness in its Analysis of the factors.³

The Board found that MPD's Request did not meet the requirements for reversing the Award. Specifically, the Board found that the Arbitrator’s conclusions were based on a thorough analysis of the record and could not be said to be clearly erroneous or contrary to law and public policy and therefore no grounds existed to modify, set aside, or remand the Award.⁴

Thereafter, MPD filed a Petition for Review in D.C. Superior Court. On October 4, 2018, the Hon. Robert R. Rigsby entered an order affirming PERB’s Decision and Order.⁵

On March 29, 2019, FOP filed the instant Petition for Enforcement. FOP contends the MPD has failed to comply with Slip Opinion 1644 by refusing to reinstate Grievant and provide back pay and benefits as required by the Award. FOP is requesting that the Board enforce Slip Opinion 1644 and compel MPD to comply with the terms of the Award.⁶

III. The Union's Entitlement to Relief

The elements for granting a petition for enforcement are present herein. FOP prevailed at arbitration, and MPD filed an arbitration review request. The Board denied MPD’s Request and issued Slip Opinion No. 1644. FOP then filed the instant Petition for Enforcement. MPD filed a response admitting the material facts. MPD has not reinstated Grievant or provided back pay and benefits as required. Therefore, MPD has not complied with the Award.

MPD's failure to comply with the terms of the Award is not based on a genuine dispute over the terms of the Award but is rather a flat refusal to comply with it. It is undisputed that the Board's order affirming the Award became final and that MPD did not comply with the Award. No dispute over the terms of the Award has been raised and no reason for noncompliance has been suggested. Therefore, the Petition for Enforcement is granted. The Board will seek judicial enforcement of its October 19, 2017 Decision and Order, as provided under D.C. Official Code § 1-617.13(b).

² *Douglas v. Veterans Admin.*, 5 MSPB 313 (M.S.P.B. 1981) sets forth a list of factors to be considered when assessing the appropriateness of a penalty.

³ *MPD v. FOP/MPD Labor Comm. ex rel. Johnson*, 64 D.C. Reg. 13401, Slip Op. 1644 at 3, PERB Case No. 17-A-09 (2017).

⁴ *Id.* at 4.

⁵ Pet. Ex. 3

⁶ Petition at 3.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Fraternal Order of Police/Metropolitan Police Department Labor Committee's petition for enforcement is granted.
2. Within ten (10) days from the issuance of this Decision and Order, the Metropolitan Police Department shall fully comply with the terms of the Award, if it has not already done so, and shall notify the Public Employee Relations Board in writing that it has complied.
3. The Board shall proceed with enforcement of Slip Opinion 1644 pursuant to D.C. Official Code §§ 1-605.02(16) and 1-617.13(b) if full compliance with the Award is not made and documented within ten (10) days of the issuance of this Decision and Order.
4. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

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

Washington, D.C.

May 16, 2019

Certificate of Service

This is to certify that the attached Decision and Order in PERB Case No. 19-E-03, Opinion No. 1710 was sent by File and ServeXpress to the following parties on this the 20th day of May 2019.

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/s/

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