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

In the Matter of)
Alice Valentine,) PERB Case Nos. 00-U-21 and 00-S-02
Complainant,) Opinion No. 643
V.)
Local 2095, 1199 Metropolitan District,)
D.C. National Union of Hospital and)
Health Care Employees; American)
Federation of State, County and Municipal)
Employees (AFSCME), Local 2091,)
Respondents.)

DECISION AND ORDER

This matter involves a Motion for Reconsideration filed by the Complainant. The Complainant is requesting that the Board reverse the Executive Director's dismissal of the Complaint.

The Complainant alleges that Local 2095, 1199 Metropolitan District, D.C. National Union of Hospital and Health Care Employees ("NUHHCE" or "union"), American Federation of State, County, and Municipal Employees (AFSCME) and 1199 Metropolitan District D.C., NUHHCE, AFSCME ("NUHHCE" or "Respondents"), violated the Comprehensive Merit Personnel Act (CMPA). (Compl. at p. 4). Specifically, the Complainant claims that the union's failure to obtain an expedited arbitration hearing date on her behalf, constitutes an unfair labor practice under D.C. Code Sec 1-618.4(b)(3). (Compl. at p. 2). In addition, she contends that the: (1) union has failed to fairly and properly represent her; and (2) union's attorney failed to provide competent representation. (Compl. at pgs. 3, 5-6.).

After reviewing the pleadings, the Executive Director determined that the Complainant allegations failed to state a basis for a claim under the CMPA. Specifically, the Executive Director

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determined that the Complainant failed to claim that any of her employee rights as prescribed under D.C. Code Sec. 1-618.6, had been violated in any manner by the union. Instead, the Complainant's asserted violation of D.C. Code Sec. 1-618.4(b), are based on her belief that the: (1) the union failed to obtain an expedited arbitration date on her behalf; (2) union's attorney was not familiar with her case; and (3) union's attorney failed to request back pay. However, the Complainant failed to assert or demonstrate that the handling of her grievance was arbitrary, discriminatory, or the product of bad faith on the part of the union. 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 Secs. 1-618.3 or 1-618.4. Therefore, the Executive Director concluded that since no statutory basis existed for the Board to consider the Complainant's claim, her Complaint would be dismissed.

The Complainant filed a Motion for Reconsideration, requesting that the Board reverse the Executive Director's administrative dismissal. NUHHCE filed an Opposition to the Motion. The Motion is before the Board for disposition.

We are concerned by the length of time that it has taken to schedule the Complainant's arbitration hearing coupled with the allegation that the Respondents will not seek back pay for the grievant. However, we are not prepared to rule on this case at this time. Instead, we will hold this matter in abeyance for thirty days. Within ten days from the service of this Opinion, the Respondents shall submit a statement concerning the current status of the union's handling of the grievance, including information regarding why it has taken so long to schedule and hold an arbitration hearing in this case. We will consider this matter anew after the expiration of the thirty day period.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Consolidated Unfair Labor Practice and Standards of Conduct Complaint be held in abeyance for thirty days.
2. The Respondents shall submit within ten (10) days from the service of this Opinion, a statement concerning the current status of the Complainant's arbitration hearing date.
3. The Respondents shall submit within ten (10) days from the service of this Opinion, information regarding why it has taken so long to obtain and hold an arbitration hearing in this case

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Washington, D.C.

January 9, 2001

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 00-U-21 and 00-S-02 was served, via U.S. Mail, to the following parties on this 9th day of January, 2001.

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