

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:)	
)	
Derrick Hunter)	
)	
Complainant,)	PERB Case No. 05-U-22
)	
v.)	Opinion No. 1201
)	
American Federation of State, County and)	
Municipal Employees, AFL-CIO, District)	
Council 20, Local 2087)	Unfair Labor Practice Complaint
)	
)	
Respondent.)	

DECISION AND ORDER

I. Statement of the Case

Derrick Hunter (“Mr. Hunter” or “Complainant”) filed an Unfair Labor Practice Complaint (“Complaint”), *pro se*, against the American Federation of State, County and Municipal Employees, AFL-CIO, District Council 20, Local 2087 (“Respondent” or “Union”). The Complaint alleges that the Respondent violated its union contract and the United States Constitution by failing to investigate the reason for Complainant’s termination from his position as a Probationary Police Officer with the University of the District of Columbia (See Complaint at p. 1).

Respondent failed to file an Answer.

II. Discussion

On June 1, 2004, Complainant was hired as a police officer on the property of the University of the District of Columbia ("UDC") and was assigned to the position of patrol officer. See, Complaint at pg. 2. As a probationary patrol officer, Complainant was assigned a field training officer ("FTO"). See, Complaint at pg. 2. Following approximately four (4) months of training, Robert T. Robinson, Vice President of Public Safety and Emergency Management, gave Complainant a 'release letter' indicating Complainant understood all aspects of the job, including patrolling, ticket writing, incident report writing, and an understanding of District and federal laws. See, Complaint at pgs. 2-3. Complainant was also evaluated by his FTO and received no negative ratings. See, Complaint at pg. 3.

On December 14, 2004, Complainant received a letter from Mr. Robinson terminating Complainant's employment ("termination letter"). See, Complaint at pg. 3. The letter stated: "After careful consideration and reflection, I regret to inform you that your probationary appointment will terminate, effective December 31, 2004." (Termination Letter at pg. 1). The letter failed to state a reason for Complainant's termination. See, Complaint at pg. 3; Also see, Termination Letter at pgs. 1-2. On December 15, 2004, Complainant contacted Reggie Watkins, a steward for Respondent, and requested information on his termination. See, Complaint at pg. 3. Mr. Watkins said UDC did not provide the Union with a reason for Complainant's termination. See, Complaint at pg. 3. On December 20, 2004, Complainant contacted Clarence Atkins, lead steward for the Respondent, and asked the Union to investigate the reason for his termination. See, Complaint at pg. 3. Complainant never received a response. See, Complaint at pg. 3.

On January 14, 2005, Complainant filed an unfair labor complaint. See, Complaint at pg. 1. On January 19, 2005, the Washington, D.C. Public Employee Relations Board ("PERB") sent Complainant a letter ("PERB letter") informing Complainant that his complaint lacked "A clear and concise statement of the facts constituting the alleged violation, including the date and the place of occurrence and a citation to the provisions of D.C. Law 2-139 alleged to have been violated. (Board Rule 520.3)"¹ (PERB Letter at pg. 1). The letter also stated: "In accordance with Board Rule 501.13, you have ten days from the date of this letter to cure the above-noted filing deficiency. Failure to submit the required information by the close of business (4:45 p.m.) on **February 4, 2005**, could result in the dismissal of this action." (PERB letter at pg. 2). Complainant did not respond to PERB's letter. On April 22, 2005, Complainant filed a Supplemented Complaint ("Supplemented Complaint") that included a description of a letter Complainant received from Mr. Robinson on March 8, 2005. The March 8, 2005 letter stated that Complainant's termination was based upon poor work performance and inappropriate conduct. See, Supplemented Complaint at pg. 4. Specifically, the letter stated that Complainant had viewed pornographic material on the Department's computers. See, Supplemented Complaint at pg. 4. Complainant responded in the Supplemented Complaint that his evaluations were all excellent, as was his time and attendance, and UDC blocks pornographic websites. See,

¹ Board Rule 520.3 requires an unfair labor practice complaint to contain "a clear and complete statement of the facts constituting the alleged unfair labor practice, including date, time and place of occurrence of each particular act alleged, and the manner in which D.C. Code Section 1-618.4 [now cited as 1-617.04] of the CMPA is alleged to have been violated."

Supplemented Complaint at pg. 4. In addition, Complainant stated the Union failed to conduct a plenary investigation, which they should have done, as his termination was "deliberate, intentional, and was not in accordance with the union contract." (Supplemented Complaint at pg. 4).

Respondent failed to file an Answer in response.

This Board has held that while a Complainant need not prove their case on the pleadings, they must plead or assert allegations that, if proven, would establish the alleged statutory violations. See, *Virginia Dade v. National Association of Government Employees, Service Employees International Union, Local R3-06*, 46 DCR 6876, Slip Op. No. 491 at 4, PERB Case No. 96-U-22 (1996); *Gregory Miller v. American Federation of Government Employees, Local 631, AFL-CIO and D.C. Department of Public Works*, 48 DCR 6560, Slip Op. No. 371, PERB Case Nos. 93-S-02 and 93-U-25 (1994); and *Goodine v. FOP/DOC Labor Committee*, 43 DCR 5163, Slip Op. No. 476 at p. 3, PERB Case No. 96-U-16 (1996). In addition, when considering the pleading of a *pro se* Complainant, the Board construes the claims liberally to determine whether a proper cause of action has been alleged and whether the Complainant has requested proper relief. See, *Osekre v. AFSCME Council 20, Local 2401*, 47 DCR 7191, Slip Op. No. 623, PERB Case Nos. 99-U-15 and 99-S-04 (2000); *Beeton v. D.C. Department of Corrections and Fraternal Order of Police/Department of Corrections Labor Committee*, 45 DCR 2078, Slip Op. No. 538, PERB Case No. 97-U-26 (1998). In the present case, Complaint alleges the Union violated the United States Constitution, including the Fifth and Fourteenth Amendments. Notwithstanding, claims of this sort are not unfair labor practices. Therefore, such claims should be dismissed as falling outside the jurisdiction of the Board in connection with Complainant's unfair labor practice complaint. See, D.C. Code §§ 1-617.02-617.04. Even viewing the claims liberally, as Complainant is *pro se*, the Board finds a proper cause of action has not been alleged.

In addition, Board Rule 520.3 details the necessary content of an unfair labor practice complaint.² One of the required elements of an unfair labor practice complaint is: "A clear and complete statement of the facts constituting the alleged unfair labor practice, including date, time and place of occurrence of each particular act alleged, and the manner in which D.C. Code Section 1-618.4³ of the CMPA is alleged to have been violated." (PERB Rule 520.3(d)). In the January 19, 2005 PERB Letter, Complainant was informed that his Complaint was deficient and he must provide additional information by February 4, 2005, or risk having the case

² Board Rule 520.3- Contents: Unfair labor practice complaint shall be filed according to procedures under Section 501 of these rules, shall be signed by the Complainant, and shall contain the following:

- (a) The name, address and telephone number of the complainant;
- (b) The name, address and telephone number of the respondent;
- (c) The name, address and telephone number of the complainant's representative, if any;
- (d) A clear and complete statement of the facts constituting the alleged unfair labor practice, including date, time and place of occurrence of each particular act alleged, and the manner in which D.C. Code Section 1-618.4 of the CMPA [now cited as Section 1-617.04] is alleged to have been violated;
- (e) A statement of the relief sought;
- (f) A statement as to the existence of any related proceedings or other proceedings involving matters related to the complaint, and the status or disposition of those proceedings; and
- (g) A copy of the collective bargaining agreement, if any.

³ Now cited as Section 1-617.04 of the CMPA.

dismissed. Complainant neglected to respond by the deadline. Again, Complainant failed to provide the required information when he filed the Supplemented Complaint on April 22, 2005. Although the Supplemented Complaint contained a description of a letter received after the original Complaint had been filed, it did not correct the deficiencies identified in the PERB Letter. Therefore, neither the original Complaint nor the Supplemented Complaint conformed to Board Rule 520.3.

As a result, Mr. Hunter's Complaint is dismissed.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Complaint filed by Derrick Hunter ("Mr. Hunter" or "Complainant") is dismissed.
2. 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.

October 7, 2011

CERTIFICATE OF SERVICE

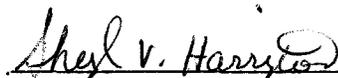
This is to certify that the attached Decision and Order in PERB Case No. 05-U-22 was transmitted via Fax and U.S. Mail to the following parties on this the 7th day of October 2011.

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U.S. MAIL

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