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

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In the Matter of:)	
)	
American Federation of)	
Government Employees, Local 1000)	
AFL-CIO)	
Complainant,)	
)	
v.)	PERB Case No. 13-U-03
)	
District of Columbia)	Opinion No. 1555
Department of Employment Services)	
Respondent.)	
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DECISION AND ORDER

On October 12, 2012, American Federation of Government Employees, Local 1000, AFL-CIO (“Complainant” or “Union”) filed an unfair labor practice complaint (“Complaint”) alleging that the District of Columbia Department of Employment Services (“Respondent” or “DOES”) refused to provide requested bargaining information in violation of D.C. Official Code §§ 1-617.04 (1) and (5). The Board adopts the Hearing Examiner’s finding and recommendation that DOES did not violate D.C. Official Code §§ 1-617.04 (1) and (5) because the underlying unfair labor practice complaint was not filed in a timely manner. No exceptions were filed to the Hearing Examiner’s Report and Recommendation. The Hearing Officer’s recommendation is reasonable, supported by the record and consistent with the Board’s precedents.¹

I. Statement of the Case

This case arises in connection with a grievance filed by the Union following the termination of employee Lori Leggett (“Leggett”). The grievance was referred to arbitration and a hearing was scheduled to be heard by an Arbitrator on June 15, 2012. By letter dated May 21,

¹ *Fraternal Order of Police/Metropolitan Police Department/Labor Committee v. District of Columbia Metropolitan Police Department*, 59 D.C. Reg. 5485 (2012), Slip Op. No. 991, PERB Case No. 08-U-19 (September 30, 2019); *Fraternal Order of Police/Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department*, 59 D.C. Reg. 6579 (2012), Slip Op. No. 1118, PERB Case No. 08-U-19 (August 19, 2011); and *American Federation of Government Employees, Local 872 v. District of Columbia Water and Sewer Authority*, 52 D.C. Reg. 2474 (2005), Slip Op. No. 702, PERB Case No. 00-U-12 (2003).

2012, the Union requested nine items of bargaining information relevant to the termination of Leggett in anticipation of the scheduled arbitration. The Union asked DOES to provide the information on or before May 29, 2012. By letter dated June 7, 2012, DOES replied to the information request by providing four of the requested nine items and, for various reasons, declined to provide the remaining items.² That letter was received by the Union on June 12, 2012.³ The case proceeded to arbitration on June 15, 2012 and the grievant's termination was upheld. On October 12, 2012, the instant Complaint was filed by the Union claiming that DOES committed an unfair labor practice (ULP) by failing to provide the requested information in a timely manner. A PERB hearing was held on June 12, 2014.

II. Analysis

PERB Rule 520.4 provides, "Unfair labor practice complaints shall be filed not later than 120 days after the date on which the alleged violations occurred." Time limits for filing appeals with PERB are mandatory and jurisdictional.⁴ The 120 day period begins when the complainant first knew or should have known about the acts giving rise to the alleged violation.⁵ In *Rayshawn Douglas v. American Federation of Government Employees, Local 2725, AFL-CIO*,⁶ the Board held untimely a complaint filed 121 days after the last date stated in the complaint that the violation could have occurred. The complaint alleged that the violation occurred "on or after August 29, 2012" and the complaint was filed on December 28, 2012.

The Hearing Examiner in this case stated: "Based on the record evidence, and particularly noting that the Union knew on June 12, 2012, that the Respondent denied its request for certain necessary and relevant information, the ULP complaint had to be filed on or before October 10, 2012. Since the subject complaint was not filed until October 12, 2012, it was untimely filed." In the letter that the Union received on June 12, 2012, DOES declined to provide requested information that is the object of this complaint. Hence, the Union knew on June 12, 2012 that DOES was not fully complying with the request. The Complaint was filed by the Union on October 12, 2012, or 122 days later. This is outside of the 120 day window. The Hearing Examiner found that the Complaint was untimely.⁷ We agree.

III. Conclusion

² R&R at 2-3.

³ *Id.*

⁴ *District of Columbia Public Employee Relations Board v. District of Columbia Metropolitan Police Department*, 593 A.2d 641, 643 (D.C.1991). *Hoggard v. District of Columbia Public Employee Relations Board*, 655 A.2d 320,323 (D.C. 1995).

⁵ *Charles E. Pitt v. District of Columbia Department of Corrections*, 59 D.C. Reg. 5554 (2012), *Slip Op. No. 998 at p. 5*, PERB Case No. 09-U-06 (December 24, 2009).

⁶ 60 DC Reg. 16483 (2013), *Slip Op. No. 1437*, PERB Case No. 13-U-12 (November 8, 2013).

⁷ R&R at 4.

Based on the foregoing, and because the Hearing Examiner's recommendation is reasonable, supported by the record and consistent with the Board's precedents, the Union's allegation that DOES violated D.C. Official Code §§ 1-617.04 (1) and (5) is dismissed.⁸

ORDER

IT IS HEREBY ORDERED THAT:

1. Petitioner's unfair labor practice complaint 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

By unanimous vote of Board Chairperson Charles Murphy, and Members Yvonne Dixon and Ann Hoffman.

November 19, 2015

Washington, D. C.

⁸ Because the underlying ULP is found untimely, the Board finds it unnecessary to rule on the merits of the Agency's response to the information request.

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 13-U-03, Opinion No. 1555, was served by File & ServXpress on the following parties on this the 19th day of November, 2015.

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/s/ Sheryl Harrington _____

PERB