

Notice: This decision may be fully revised before it is published in the District of Columbia Register. Parties should promptly notify the office of any formal errors to that they may be corrected before publishing the decision. This notice is 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:)

District of Columbia Department)
of Corrections Correctional)
Officers and Employees)
Local Union No. 1714)
a/w International Brotherhood)
of Teamsters, Chauffeurs,)
Warehousemen and Helpers of)
America, AFL-CIO,)

Complainant)

and)

Fraternal Order of Police)
Department of Corrections)
Labor Committee,)

Substituted-Complainant)

v.)

District of Columbia)
Department of Corrections,)

Respondent.)

PERB Case No. 93-U-18
Opinion No. 398

(Motion)

DECISION AND ORDER

On April 27, 1993, the District of Columbia Department of Corrections Correctional Officers and Employees, Local Union No. 1714, a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO (Teamsters) filed an Unfair Labor Practice Complaint with the Public Employee Relations Board (Board). The Teamsters alleged that the D.C. Department of Corrections (DOC) violated the Comprehensive Merit Personnel Act (CMPA), D.C. Code Sec. 1-618.4(a)(5) and (1) by failing and refusing to provide "information requested by Local 1714 [that] is relevant and necessary for the Union to fulfill its function as the exclusive bargaining representative of employees in the bargaining unit". The Office of Labor Relations and Collective Bargaining (OLRCB), on behalf of DOC, filed an Answer to the Complaint on December 3, 1993,^{1/} denying

^{1/} The investigation of the Complaint was held in abeyance pending the final disposition of a recognition petition filed by the Fraternal Order of Police/Department of Corrections Labor Committee, seeking to represent this same unit of employees. PERB

that it had committed an unfair labor practice.

On January 12, 1994, pursuant to the results of a duly conducted election proceeding, the Board certified the Fraternal Order of Police, Department of Corrections Labor Committee (FOP) as the exclusive representative of the collective bargaining unit formerly represented by the Teamsters. Fraternal Order of Police/Department of Corrections Labor Committee and District of Columbia Department of Corrections and District of Columbia Department of Corrections Correctional Officers and Employees, Local Union No. 1714, a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO and the Alliance of Independent Corrections Employees, Inc., PERB Case No. 93-R-04, Certification No. 73 (1994). On June 9, 1994, FOP filed in this proceeding a document styled "Motion to Substitute a Party and to Dismiss the Case". Responses to the Motion were filed by OLRCB and the International Brotherhood of Teamsters (IBT), on behalf of Teamsters Local 1714.

As the successor exclusive representative for this unit of employees, FOP states that it has decided "not to pursue PERB Case 93-U-18" and, accordingly, moves that the case be dismissed. IBT acknowledged that as of January 12, 1994, "the FOP/DOC Labor Committee became responsible ... for handling all actions then pending before the PERB involving the employees at the Department, and for determining which actions to pursue and which to terminate." IBT further stated that the charter of Teamsters Local Union No. 1714 was revoked effective April 1994, and it has "ceased to have any such responsibility, power or discretion with respect to such pending matters, except to assist the FOP/DOC Labor Committee in assuming such responsibility." OLRCB does not oppose the Motion. ^{2/}

Case No. 93-R-04.

^{2/} OLRCB raised concerns in its response that the issues presented by the Complaint have "far reaching bargaining unit impact" and stated a need for clear direction to avoid any appearance, on its part, of bargaining in bad faith. (Resp. at 3.) As we have stated in the text, the Complaint allegation concerns a collective bargaining right that inures to the FOP as the exclusive representative of these employees. Therefore, it is FOP's right to determine whether or not to pursue this Complaint.

A similar situation involving the pursuit of contractual rights under a prior unexpired collective bargaining agreement by a successor representative was addressed by the D.C. Superior Court in Teamsters Local Union No. 246 v. District of Columbia Dept. of Corrections, et al., Civil Action No. 08552-86, Slip Op. at 5

The right of a labor organization to bargain collectively in good faith under the CMPA is vested in the certified exclusive representative. See, D.C. Code Sec. 1-618.11. For the employees at DOC, that right is now accorded to the FOP.^{3/} As there is no dispute over FOP's status as the certified exclusive representative of this unit of employees, having replaced the Teamsters, FOP's decision not to pursue the Complaint filed in this proceeding is exclusively within its discretion. We therefore grant FOP's Motion to substitute itself as the Complainant in this proceeding and to dismiss the Complaint.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Motion to substitute the Fraternal Order of Police/DOC Labor Committee for the District of Columbia Department of Corrections Correctional Officers and Employees, Local Union No. 1714, a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO, as Complainant in this case, and to dismiss the Complaint, is granted.
2. The FOP is substituted for the Teamsters as the Complainant in this case.
3. The Complaint is dismissed.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.
July 15, 1994

(1987). The Court held that when a prior representative has formally transferred representational responsibility to the successor union and takes no action to assert or maintain such rights, the prior union is not an indispensable party to an action with respect to those rights where, as in this case, there is no claim by the Respondent that any unfairness or prejudice would result to it by the fact that the action is taken without the prior union being made a party. We find this rationale appropriate to actions maintained by a successor union with respect to its statutory rights under the CMPA.

^{3/} The claimed right to relevant information, upon request, to discharge the duties of an exclusive representative stems from the duty to bargain in good faith. American Federation of State, County and Municipal Employees, Council 20, AFL-CIO v. D.C. General Hospital and the D.C. Office of Labor Relations and Collective Bargaining, 36 DCR 7101, Slip Op. No. 227 at 2-3, PERB Case No. 88-U-29 (1989).