GOVERNMENT OF THE DISTRICT OF COLUMBIA PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:

Sharon A. Coleman,

Petitioner,

PERB Case No. 85-S-02 Opinion No. 126

and

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The Fraternal Order of Police,

Respondent,

DECISION AND ORDER

On August 23, 1985, Sharon A. Coleman (Complainant) filed a Standards of Conduct Complaint against the Fraternal Order of Police/Metropolitan Police Department Labor Committee (FOP) with the Public Employee Relations Board (Board). The Complaint alleges that FOP violated Section 1703(a)(1) of the Comprehensive Merit Personnel Act (CMPA) by failing and/or refusing to represent the Complainant in a grievance involving her suspension. The Complainant requests that the FOP be ordered to comply with Section 1703(a)(1) and the FOP pay all of the Complainant's attorney fees and costs necessitated by her pursing administrative relief through an attorney.

On September 9, 1985, FOP filed a response with the Board stating that the Complaint fails to allege any conduct by the FOP which could be a violation of the CMPA. FOP denies that it had ever refused to represent the Complainant, in fact, it is presently representing her in two P.D. 42 (sick leave) appeals.

The issue before the Board is whether the FOP violated the CMPA by failing or refusing to represent the Complainant.

On or about January 28, 1985 the Complainant was placed on limited duty status by the Metropolitan Police Department's doctors. On June 10, 1985, the Complainant filed an Equal Employment Opportunity Complaint against the MPD. The FOP does not represent the Complainant in that case nor does the Complainant allege that the FOP refused to represent her in those proceedings.

According to the Complainant, she contacted the FOP on or about August 8, 1985 seeking assistance in a grievance concerning her suspension. She claims that the FOP told her that "there was nothing the FOP could do without knowing the Department's side of the story." Decision and Order Case No. 85-S-02 Opinion 126 Page 2

The FOP's Counsel, Robert Deso states that the Complainant did contact him on August 8, 1985 and he told her that he had been in contact with Gary Hankins, Chairman of the FOP, who was now making inquiries with the MPD to find out why she was suspended and if the MPD was going to stand by its actions. Deso also stated that he told the Complainant that in his view the MPD was in error by changing her light duty status to leave without pay without giving her a physical examination. Deso also stated that when meeting with the Complainant ended, he assumed the matter was being taking care of and that the Complainant would contact Hankins to see what developed from his inquiries.

Deso further states that the FOP is still willing to represent the Complainant, and that he notified the Complainant's attorney of FOP's continued willingness to represent the Complainant.

The Board has thoroughly reviewed the pleadings and arguments of both parties and finds that the disagreement between the parties may be characterized as a failure of communication, rather than a failure of representation. Accordingly, the Board finds that, in this instance, FOP's conduct does violate the CMPA.

ORDER

IT IS ORDERED THAT:

The Complaint is dismissed.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD December 6, 1985