GOVERNMENT OF THE DISTRICT OF COLUMBIA BEFORE THE PUBLIC EMPLOYEE RELATIONS BOARD

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In the Matter of))
International Brotherhood of Police Officers, Local 442)))
2139 Wisconsin Avenue, N.W. Washington, D.C. 20001	<i>)</i> }
washington, D.C. 20001) }
Complainant	Ó
)) Case Number 80-U-01)
and	PERB Opinion No. 4
The District of Columbia Metropolitan Police Department Municipal Center 300 Indiana Avenue, N.W. Washington, D.C. 20001)))))
Respondent)
)

DECISION AND ORDER

This case arose as a result of an unfair labor practice complaint filed with the Board on April 10, 1980 by the International Brotherhood of Police Officers (IBPO), Local 442. The complaint alleged that the respondent Metropolitan Police Department had violated Section 1704 (a) (1) and (5) of the District of Columbia Comprehensive Merit Personnel Act of 1978 (D.C. Law 2-139) by changing, without bargaining with the union, an established method of recording overtime for court duty. Respondent moved on May 23, 1980 to dismiss the complaint on the grounds (i) that the Board lacked jurisdiction, at the time the complaint was filed, to consider the case, and (ii) that no past practice had been established to support the recording method relied on in the complaint.

The case was referred to Hearing Examiner Arnold Ordman and a hearing was held on June 9, 1980. On August 15, 1980, the Hearing Examiner issued his Report and Recommendation: that the Board did have jurisdiction over this matter, and that the respondent had committed an unfair labor practice in departing unilaterally from a previously established reporting and payment practice.

The Board considered the Hearing Examiner's Report and Recommendation at its meetings on November 25, and December 10, 1980.

We agree with the Hearing Examiners' conclusion so far as the jurisdictional issue is concerned, for the reasons stated in his Report.

We come to a contrary conclusion, however, so far as the finding of established past practice is concerned. Respondent has relied here on General Orders 206.1 and 701.1 issued in 1971 and amended in 1978, covering the time-clock procedure for court appearance records. Although there is clearly room for different interpretations of the extent to which these general orders had been eroded by sometimes varying practice, we find no violation of the Act in the respondent's decision to adhere firmly to a rule that had been accepted in the beginning as reasonable and fair. The abuse of General Orders 206.1 and 701.1 as amended is not a sufficient basis to find the establishment of a "past practice".

Order

The complaint is dismissed.

Concurring: Members Carter, Zumas, Wright, Wirtz

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Date: December 18, 1980