

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

PENNSYLVANIA SOCIAL SERVICE UNION, :
LOCAL 668, :
SERVICE EMPLOYEES INTERNATIONAL UNION :
: Case No. PERA-C-10-317-E
v. :
: :
MONTGOMERY COUNTY :

PROPOSED DECISION AND ORDER

On September 9, 2010, the Pennsylvania Social Services Union, Local 668, Service Employees International Union (Union or Complainant) filed a charge of unfair practices with the Pennsylvania Labor Relations Board (Board) against Montgomery County (County or Respondent), alleging that the County violated Sections 1201(a)(1), (3) and (4) of the Public Employe Relations Act (PERA).

On September 27, 2010, the Secretary of the Board issued a Complaint and Notice of Hearing in which the matter was assigned to a conciliator for the purpose of resolving the matters in dispute through the mutual agreement of the parties and December 7, 2010, in Norristown was scheduled as the time and place of hearing if necessary.

A hearing was necessary, and was held as scheduled, at which time, the parties were afforded a full opportunity to present testimony, cross-examine witnesses and introduce documentary evidence.

The examiner, on the basis of the testimony presented at the hearing and from all other matters and documents of record, makes the following:

FINDINGS OF FACT

1. Montgomery County is a public employer as defined in Section 301(1) of PERA, 43 P.S. § 1101.301(1). (N.T. 9-10)
2. Pennsylvania Social Services Union, Local 668, Service Employees International Union is an employee organization as defined in Section 301(3) of PERA, 43 P.S. § 1101.301(3). (N.T. 9-10)
3. On May 11, 2010, the Union filed a petition with the Board at Case No. PERA-R-10-170-E to represent a bargaining unit of employes of the County's Department of Human Services.
4. On July 1, 2010 the Board issued an order directing that a representation election be scheduled for July 22, 2010. However, on July 13, the Union withdrew the petition before the election could take place.
5. P. Keith Keenan is employed as a supports coordinator for the County's Department of Human Services, specifically in Behavior Health and Developmental Disabilities. He has worked in that position for five years. He is responsible for locating, coordinating and monitoring services for individuals with developmental disabilities throughout Montgomery County. (N.T. 14, 43, 113)
6. Keenan's immediate supervisor is Karen Kenny, who is supervised by Barbara Sherman, the director of supports coordination for the central division of the Montgomery County Supports Coordination Organization (MCSCO).

7. Sherman is supervised by Andrea Costello, the deputy administrator for the MCSCO. (N.T. 14, 19-20, 24, 94)

8. Costello is responsible for supervising employees in three locations who are charged with locating, coordinating and monitoring services for approximately 3,000 persons with mental retardation. (N.T. 100)

9. Around the time of the SEIU petition, Keenan attended several SEIU information meetings where the Union's representation petition was discussed. (N.T. 11, 13)

10. Keenan became a supporter of the SEIU petition. He demonstrated his support by wearing an SEIU lanyard and hanging an SEIU t-shirt and sign in his office cubicle at work. (N.T. 13, 50-51)

11. Keenan also informed other employees in his work unit about his support for the union. (N.T. 12-13)

12. Some of these employees were not in favor of a union and they informed their supervisors of Keenan's vocal support for the union. (N.T. 13)

13. In 2009, the Commonwealth of Pennsylvania changed the policies and procedures of paying for the care of its mentally retarded citizens so that the counties became the providers of service and the recipient of Medicaid reimbursement for those services. This change caused Montgomery County to adjust its management of the caseloads for those persons so that the County would receive payment for its billings for services rendered in a prompt fashion. (N.T. 110-112)

14. The changes required the workers in the MCSCO to meet a five day deadline for the processing of bills for service. (N.T. 111-112)

15. Costello communicated this new requirement to the employees in the MCSCO in a variety of ways, including through the use of a full-time trainer. There was a training session in February, 2010. (N.T. 110-115; County Exhibit 5)

16. To assist the transition and the overall change in operations, the department set up weekly meetings to assess their performance. The length of the meeting could vary depending on the employee's performance and issues the employee or supervisor wished to discuss. (N.T. 123-125, County Exhibit 3)

17. In September, 2009, Keenan had also requested weekly meetings with his supervisor. This request was made along with other measures to deal with his concerns about his supervision. (N.T. 74-77, 94, 125; County Exhibit 7)

18. The weekly meetings continued through 2010. They were held every Wednesday at 3:30 p.m. At one point in 2010, Keenan requested that the department cease holding the weekly meetings, but his supervisors continued them because of his poor work performance. (N.T. 16, 42-43, 45, 125)

19. The weekly meetings were held with Kenny, Keenan's immediate supervisor, and Kathy Graham. Eventually, Costello joined the meetings. (N.T. 16)

20. In January, 2010, a co-worker filed a complaint about Keenan speaking about her breasts and putting his head on her breasts. (N.T. 166)

21. Keenan admitted that he had spoken about her breasts and put his head on her shoulder. (N.T. 82-84)

22. Keenan received a two day suspension based on this complaint. The Civil Service Commission upheld the suspension. (N.T. 82-84, 166)

23. On March 10, 2010, Kenny, the office supervisor, met with Keenan to discuss his low TSM billing for the month of February. (N.T. 58, 94, County Exhibit 2)

24. Costello works on a floor above Keenan's first floor office, but on occasion, she needs to see Barbara Sherman on her floor. During one visit, she noticed Keenan and his SEIU lanyard and the SEIU materials posted in his cubicle. (N.T. 101)

25. In July, 2010, at one of the weekly supervisory meetings, Costello came to his office space and to talk about his work performance. She also asked him what did he think the union could do for him and why did he think the Union was worth representing him. (N.T. 19)

26. At one of Keenan did not respond because he did not know what to say. (N.T. 19)

27. Later in July, Keenan was called to a meeting with Costello, Barbara Sherman and Anetta McHale. Costello informed Keenan that he was not to talk about the union during work time and that he was not to harass people who were not in favor of the union. (N.T. 17-18)

28. Either at that meeting or another meeting, Costello spoke negatively about the union, asking Keenan why would he be supporting a group of people that would be gone on the 23rd, didn't really care about him and were playing him for a fool. (N.T. 19)

29. On July 16, 2010, Costello issued Keenan a written warning called a Last Chance Agreement. The warning noted two face to face meetings that management held with Keenan to discuss his conduct. The first meeting was on March 23, 2010 (about improper use of employe mailboxes for distributing union material and the need to refrain from discussing union information during work time and to respect co-workers' rights when they ask him to leave them alone regarding the union organizing.) The second meeting was on July 7, 2010 ("A meeting was held with SCO Administration, your Office Director and you as a direct result of a formal grievance being filed by a co-worker. The subject was engaging in union discussion and a request for union materials to be signed by an employee. As resolution to the grievance, you were told to cease and desist from any further activity of this kind.) The warning went on to say, "Please understand that another incident of this nature may lead to termination." (N.T. 54, 94, County Exhibit 1)

30. On July 21, Sherman asked Keenan to finish a task before he left the office, the writing of a support plan for an individual. He worked until after 7 pm. Afterward, he requested compensatory time, but Ms. Sherman denied the leave. (N.T. 31-32)

31. Sherman testified that she denied Keenan compensatory leave because he did not follow the proper procedure for obtaining such leave. The department's procedure is to require the employee to obtain approval to accrue compensatory time before it is taken. Employes are not eligible to accrue compensatory time simply by staying late to get work done. (N.T. 126-127, 138, County Exhibit 9)

32. On July 28, 2010, Sherman and Kenny met with Keenan to discuss his work performance. They noted he had only billed 214 units for July, yet there was a requirement that his monthly billing should be 425 units by the end of the month. Keenan admitted that he was not performing according to the standard expected of him. (N.T. 118, 123, County Exhibit 3)

33. Keenan had difficulty meeting the standards of billing performance set by the department. (N.T. 116, 121-122, 142, 149, County Exhibit 5)

34. On August 4, 2010, Sherman and Kenny met with Keenan to review his past four months performance for the Targeted Services Management (TSM) work. Keenan became argumentative about the data for July. When Sherman showed him the staff meeting agenda from February 23, 2010 stating that service notes needed to be entered within five days

of case activity, Keenan stated that he did not think it "was etched in stone." Keenan then stated he was filing a grievance against Sherman because this was becoming "personal and was retaliatory" (N.T. 69, 94, County Exhibit 5)

35. On August 23, 2010, Keenan was involuntarily transferred from the supports Coordination central office in Norristown to the eastern office in Willow Grove. The Norristown office is about five minutes from Keenan's home, which he bought in part because of its proximity to the office. The Willow Grove office is about 35 minutes away from Mr. Keenan's home and requires travel on toll roads.

36. Costello was responsible for the decision to transfer Keenan. She transferred him because of Keenan's effect on the office environment. "I felt that I could no longer reach out to him in a positive way; that the people working at the central and early intervention office, that there was irrefutable damages amongst the constituency down there, that I really wasn't given any other option." "The work environment became almost unbearable, and that people were being affected by it." (N.T. 129)

37. Also, there was a recent sexual harassment allegation against him, the second one that year. On July 29, 2010, another employee, who was also a union supporter, complained about Keenan hugging her, touching her hand and making her feel uncomfortable. (N.T. 167-70, County Exhibit 11) (N.T. 129)

38. Costello decided that Willow Grove (eastern office) was an appropriate place to transfer him because he had already had a sexual harassment allegation against him in the western office and one from the central office in Norristown. Also, due to a hiring freeze the county was down several positions at the eastern office and that office "could benefit from his skill sets" in the words of Costello. (N.T. 129,

39. On August 26, 2010, following the complaint, Eric Goldstein, Administrator of County's Department of Behavioral Health/Developmental Disabilities, issued Keenan a last chance agreement notifying him that any further occurrences of sexual harassment will lead to disciplinary action against him, including suspension and/or termination. The notice was given because of two occurrences in 2010. The letter noted,

On January 29, 2010 you were warned and suspended for "extremely inappropriate sexual behavior. We have documentation of several incidents involving several people. The behaviors included dialogue of a sexual nature and conversations with one fellow employee also of a sexual nature. On July 29, 2010, we were informed via a grievance by another staff member of inappropriate behaviors involving touching, hugging and kissing. These behaviors happened on three different occasions. The occurrences were listed as having taken place in January, March and July of this year. Therefore two of these incidents took place after you were warned and suspended in January."

(N.T. 38, 94, Union Exhibit 4)

40. Sometime in 2010, Keenan notified his supervisors that he wanted to work remotely from his home. At the time he made the request, the central office did not provide that choice to employees. The only office that provided that option was the eastern office. (N.T. 130)

DISCUSSION

The Union's lengthy charge of unfair practices alleges that the County took several retaliatory actions against P. Keith Keenan because of Keenan's highly visible and vocal

support of the Union's petition to the Board to represent employes in the County's Human Services Department. The Union contends that the County's actions violated Sections 1201(a)(1),(3) and (4) of PERA.

Legal Standards

The complainant's factual allegations must be judged in light of several legal standards. The Union, as the complainant, has the burden of proving the unfair practice charge by substantial and legally credible evidence. St. Joseph's Hospital v. Pennsylvania Labor Relations Board, 473 Pa. 101, 373 A.2d 1069 (1977). If this burden is not met, the charge must be dismissed. As for the allegations that the County violated three sections of PERA, the Union must meet the following legal tests.

Section 1201(a)(1) Allegation

Section 1201(a)(1) of PERA prohibits public employers from "interfering, restraining or coercing employes in the exercise of the rights guaranteed in Article IV of this act." 43 P.S. 1101.1201(a)(1). An independent violation of Section 1201(a)(1) of PERA occurs, "where in light of the totality of the circumstances the employer's actions have a tendency to coerce a reasonable employe in the exercise of protected rights." Fink v. Clarion County, 32 PPER ¶ 32165 at 404 (Final Order, 2001). Under this standard, the complainant does not have to show improper motive or that any employes have in fact been coerced. Northwestern School District, 16 PPER ¶ 16092 (Final Order, 1985); Pennsylvania State Corrections Officers Ass'n v. Commonwealth of Pennsylvania, Department of Corrections, Pittsburgh SCI, 35 PPER ¶ 97 (Final Order, 2004).

"If the complainant carries its burden of establishing a prima facie case of a Section 1201(a)(1) violation, the burden shifts to the respondent to establish a legitimate reason for the action it took and that the need for such action justified any interference with the employes' exercise of their statutory rights. Philadelphia Community College, 20 PPER ¶ 20194 (Proposed Decision and Order, 1989)." Bethel Park Custodial/Maintenance Educational Personnel Association v. Bethel Park Sch. Dist., 27 PPER ¶ 27033 (Proposed Decision and Order, 1995). In Ringgold Educ. Ass'n v. Ringgold Sch. Dist., 26 PPER 26155 (Final Order, 1995), the Board countenanced this analysis and held that an employer does not violate Section 1201(a)(1) where, on balance, its legitimate reasons justifiably outweigh concerns over the interference with employe rights. Id. at 360.

Section 1201(a)(3) Allegation

Section 1201(a)(3) of PERA prohibits "public employers, their agents or representatives from ... [D]iscriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any employe organization." 43 P.S. 1101.1201(a)(3). In order to sustain a charge of discrimination under Section 1201(a)(3) of PERA, the complainant must prove that the employe engaged in protected activity, that the employer was aware of that protected activity, and that but for the protected activity the adverse action would not have been taken against the employe. St. Joseph's Hospital v. PLRB, 473 Pa. 101, 373 A.2d 1069 (1977). The complainant must establish these three elements by substantial and legally credible evidence. Shive v. Bellefonte Area Board of School Directors, 317 A.2d 311 (Pa. Cmwlth. 1974). St. Joseph's Hospital, supra.

The Union proved the first two elements of the St. Joseph's test. Keenan engaged in protected activity as a supporter of the SEIU drive to organize the human services department employes prior to a PLRB representation election. He participated in organizing planning meetings, talked to his coworkers about the union and signed up coworkers who wanted to be part of the union. He also wore a union T-shirt to his workplace, wore an SEIU lanyard and placed union flyers in employes' mailboxes. These activities constitute protected activity under the law. Pennsylvania State University, 21 PPER ¶ 21103 (Proposed Decision and Order, 1990), 21 PPER ¶ 21167 (Final Order, 1990) (Wearing of union button at work a form of protected activity.)

The employer was aware of his protected activity, as evidenced by high ranking officials making remarks to Keenan about his union activities. At a staff meeting, Andrea Costello, deputy administrator of supports coordination for Montgomery County, a management level employe, identified Keenan as someone who his coworkers could seek out in order to get the facts about the union. Later, on or about July 7, 2010, Costello warned Keenan against talking to employes about the union during work time. On this record, the union has met its burden of proving employer knowledge of Keenan's union activities.

The issue in dispute in this case is whether the union has proven the third element of the St. Joseph's Hospital test, whether the County was motivated by anti-union animus in taking action against Keenan. In a charge of discrimination it is the employer's motivation which creates the offense. Perry County v. PLRB, 364 A.2d 898 (Pa. Cmwlth. 1994).

Since improper motivation is rarely admitted and since the decision makers who are accused of anti-union motivation do not always reveal their inner-most private mental processes, the Board allows the fact finder to infer anti-union animus from the record as a whole. PLRB v. Montgomery County Geriatric and Rehabilitation Center, 13 PPER ¶ 13242 (Final Order, 1982); St. Joseph's Hospital, supra. However, an inference of anti-union animus must be based on substantial evidence consisting of "more than a mere scintilla and must do more than create a suspicion of the existence of the fact to be established." Shive, supra at 313.

In Child Development Council of Centre County (Small World Day Care Center), 9 PPER ¶ 9188 (Final Order, 1978), the Board stated:

There are a number of factors the Board considers in determining whether anti-union animus was a factor in the layoff of the Complainant: the entire background of the case, including any anti-union activities by the employer; statements by the discharging supervisor tending to show the supervisor's state of mind; the failure of the employer to adequately explain the discharge, or layoff, of the adversely affected employe, the effect of the discharge on unionization efforts—for example, whether leading organizers have been eliminated; the extent to which the discharged or laid-off employe engaged in union activities; and whether the action complained of was "inherently destructive" of important employe rights."

9 PPER 9188, at 380.

The Board has also noted that the timing of the adverse action against the employes would be a factor that could be used to infer that anti-union animus was the motivation for the employer action. PLRB v. Berks County (Berks Heim County Home), 13 PPER ¶ 13277 (Final Order, 1982).

The Union, as the complainant, bears the burden of proving the elements of the alleged violations by substantial and legally credible evidence. St. Joseph's Hospital v. PLRB, 473 Pa. 101, 373 A. 2d 1069 (1977). Substantial evidence means evidence that does more than just create a suspicion of the existence of the fact necessary to establish each element of the unfair practice charge. Township of Upper Makefield, 10 PPER ¶ 10299 (Nisi Order of Dismissal, 1979).

Section 1201(a)(4) Allegation

Section 1201(a)(4) of PERA prohibits public employers from "[d]ischarging or otherwise discriminating against an employe because he has signed or filed an affidavit, petition or complaint or given any information or testimony under this act." 43 P.S.1101.1201(a)(4).

In order to prove a violation of this section, the complainant must also prove three elements: (1) employe activity of signing or filing an affidavit, petition or complaint or employe giving information or testimony under PERA; (2) employer knowledge of said activity and (3) employer motivation for the action because of the employe activity. City of McKeesport, 3 PPER 161 (Final Order, 1973); Bureau of Health Research, 10 PPER ¶ 10168 (Nisi Decision and Order, 1979); Deer Creek Drainage Basin Authority, 13 PPER ¶ 13136, (Proposed Decision and Order, 1982).

The analysis of this allegation closely follows the analysis of the alleged section 1201(a)(3) allegation, except that the complainant must prove that the employer was motivated to take action against the employe because of the employe's activity related to the use of one of the Board processes.

Specific Factual Allegations

The Union's specific factual allegations will be judged against these legal standards.

Discipline for Sexual Harassment

The Union's first allegation is that the County violated PERA when it disciplined Keenan for sexual harassment. The Union argues that the discipline was without proper cause and/or adequate investigation. The Union argues that the County would not have disciplined Keenan if he had not been an active union supporter.

However, the County set forth a legitimate basis to discipline Keenan unrelated to Keenan's union activities. Eric Goldstein, the director for the County's Department of Behavioral Health and Developmental Disabilities, testified about the history of the County's responses to sexual harassment allegations against Keenan. He testified that the complaints started in January, 2010 before Mr. Keenan showed his union support. On January 29, 2010 Keenan's supervisors warned and suspended him for two days for "extremely inappropriate sexual behavior." Despite this discipline, another complaint of sexual harassment followed. On August 26, Goldstein issued Mr. Keenan a last chance agreement in which he warned him that "[a]ny further occurrences will lead to disciplinary action including suspension and/or termination of employment."

Goldstein appeared to be a credible witness. His testimony was convincing that the County initiated the discipline against Keenan because of sexual harassment complaints and not because of Keenan's PERA protected activity. The Union did not cast doubt on the County's explanation that sexual harassment complaints were the motivation for disciplining Keenan.

Because of Goldstein's credible testimony, I am accepting the County's defense that it was not motivated by Keenan's union activities in disciplining Keenan. Accordingly, the element of anti-union motivation is absent from this case. In light of this the Union has not met its burden of proving a Section 1201(a)(3) charge under St. Joseph's Hospital, supra. Similarly, there is no basis for finding a Section 1201(a)(4) violation. Furthermore, Goldstein's testimony supports the County's defense to the Section 1201(a)(1) charge that it had a legitimate reason for the discipline. Ringgold Educ. Ass'n v. Ringgold Sch. Dist. supra.

Warning Against Solicitation

The Union's second allegation is that the County violated PERA by warning Keenan to refrain from soliciting support for the union during work time. The Union contends that the County did not have a valid non-discriminatory no-solicitation rule but rather that it singled Keenan out for warning while allowing other employes to speak against the union.

The Board has recognized that a no solicitation rule must be developed and applied in a way that is neutral with regards to a union campaign. South Park School District, 10 PPER ¶ 10262 (Final Order, 1979).

There is no evidence that the County was restricting solicitation so as to restrict Keenan's legal right to promote the union. Rather, the evidence shows that the County was warning Keenan not to solicit support for the Union during work time. The County acted within the legal parameters of PERA and Board precedent on solicitation during work time "There is no question that a rule prohibiting employee distribution on employer property during working time is presumptively valid." SEPTA, 7 PPER 305C (Nisi Decision and Order, 1976), citing NLRB v. Stoddard Quirk Mfg. Co., 51 LRRM 1110 (1962). See also, AFSCME v. City of Philadelphia, 32 PPER ¶ 32009 (Final Order, 2000)

Similarly, the County also acted properly in notifying Keenan that he could not use county mailboxes to distribute union material. Public employers may restrict the use of employe mailboxes to business purposes, as long as the restriction is neutrally applied. See Reynolds Education Association v. Reynolds School District, 26 PPER ¶ 26039 (Proposed Decision and Order, 1995) (Citations to PLRB and NLRB cases omitted.) The evidence shows that that the county applied a neutral policy that its employe mailboxes were for business purposes only. Costello reacted in the same manner when she became informed that employes' internal mailboxes were being used for propaganda in favor of and opposed to the unionization effort.

Accordingly, this allegation will not serve as the basis to find that the County violated any sections of PERA.

Close Supervision

The Union's third allegation is that the County violated PERA by engaging in close supervision of Keenan. The Union argues that the County refused to discontinue weekly supervision sessions for Keenan but not for other employes.

However, the County's witnesses testified that the close supervision was caused by Keenan's continued failing to keep up with the billing and recording requirements of a new system. Costello testified that since 2009, the department has held weekly meetings with Keenan and all the other employes as part of a new billing system. Keenan had difficulty transitioning to the new system and its billing and recording requirements. He had expressed concern about his handling his caseload under the new system in October 2009. During early 2010, his supervisor sat down with him numerous times and attempted to address his deficiencies and volunteer assistance to get him back on track. Despite these efforts, Keenan continued to have difficulty. He did not perform well in April, May and June of 2010, the last quarter of that fiscal year.

In the new fiscal year, Keenan was off to a poor start. As of July 28, 2010, Keenan had only 112 hours billed into the system when he was required to have 425 hours billed for the month of July 2010. Costello testified credibly that the reason for the meeting with Keenan in July was that at the beginning of the fiscal year, she wanted the rate of reimbursements to be kept current and wanted Keenan to begin the fiscal year with a good start. Costello's testimony was not rebutted.

Keenan testified that there were other employes who also had low performance, yet the County singled him out for the close supervision because of his union activity. Keenan did not identify these employes in his testimony. Also, in answer to a question, Keenan testified that he did not know if they were treated the same way he was treated.

On this record, the County has shown that it supervised Keenan without discrimination and did so for legitimate reasons. Accordingly, in light of this evidence, this allegation will not serve as the basis to find that the County violated any sections of PERA.

Refusal to Allow Telecommuting

The Union's fourth allegation is that the County violated PERA by refusing to allow Keenan to telecommute, to work from a home computer or a remote location, while permitting other employes to do so. There is no evidence in the record to show that any similarly situated employe was permitted to work from a remote location. The choice to work remotely was only available to employes in the eastern regional office as part of a pilot program. Keenan was in the central office. Moreover, Keenan was permitted to participate in the pilot program once he transferred to the eastern office.

Accordingly, based on the evidence of record, this allegation will not serve as the basis to find that the County violated any sections of PERA.

Transfer to Willow Grove Office

The Union's fifth allegation is that the County violated PERA by transferring Keenan to an office some distance from his home. On August 23, 2010, Keenan was involuntarily transferred from the Supports Coordination Central Office in Norristown to the eastern office in Willow Grove. The Norristown office, in the county seat, is about five minutes from Mr. Keenan's home, which he bought in part because of its proximity to the office. The Willow Grove office is about 35 minutes away from Mr. Keenan's home and requires travel on toll roads.

The County witnesses explained the transfer was necessary because the department had received a second sexual harassment charge against Keenan from an employe in the central office. The managers believed that removing him from the employes who complained of his behavior would address their complaints.

Accordingly, this allegation will not serve as the basis to find the County violated any of the sections of PERA.

Denial of Compensatory Time

The Union's sixth allegation is that the County violated PERA by denying compensatory time to Keenan for time spent on a project that went beyond the normal work day. On July 21, Keenan worked past the normal quitting time, staying until seven p.m. because he believed he was required to finish the project that day. When he later requested compensatory time, he was denied.

The County witness, Barbara Sherman, testified that the reason she denied Keenan compensatory time was because he had not followed the county policy for taking compensatory time, which required the employe to obtain approval for compensatory time before the work in question. Keenan did not seek approval before requesting the time. Sherman testified credibly that she was not singling out Keenan in denying his request for compensatory time.

Accordingly, this allegation will not serve as the basis to find that the County violated any sections of PERA.

CONCLUSIONS

The examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds:

1. That Montgomery County is a public employer within the meaning of Section 301(1) of PERA.
2. That Pennsylvania Social Services Union, Local 668, Service Employees International Union is an employe organization within the meaning of Section 301(3) of PERA.

3. That the Board has jurisdiction over the parties hereto.

4. That the County has not committed unfair practices in violation of Sections 1201(a)(1),(3) and (4) of PERA.

ORDER

In view of the foregoing and in order to effectuate the policies of the Act, the examiner

HEREBY ORDERS AND DIRECTS

that the charge of unfair practices is rescinded and the complaint dismissed.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that in the absence of any exceptions filed with the Board pursuant to 34 Pa. Code § 95.98(a) within twenty (20) days of the date hereof, this decision and order shall be final.

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania, this twenty-first day of October, 2011.

PENNSYLVANIA LABOR RELATIONS BOARD

Thomas P. Leonard, Hearing Examiner