

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

AFSCME DISTRICT COUNCIL 47, :
LOCAL 2187 :
 :
v. : Case No. PERA-C-08-174-E
 :
PHILADELPHIA PARKING AUTHORITY :

FINAL ORDER

AFSCME District Council 47, Local 2187 (AFSCME) filed timely exceptions with the Pennsylvania Labor Relations Board (Board) on June 26, 2008. AFSCME's exceptions challenge a June 10, 2008 decision of the Secretary of the Board declining to issue a complaint and dismissing AFSCME's Charge of Unfair Practices filed against the Philadelphia Parking Authority (Authority).

In its Charge filed on May 12, 2008, AFSCME alleged that "[o]n numerous occasions," it requested from the Authority copies of the job descriptions for the bargaining unit members in the Authority's taxi and limousine division. AFSCME further alleged that its most recent request was made on March 31, 2008 and that the Authority failed to provide the information. AFSCME asserted that the Authority's failure to provide the requested information violated Section 1201(a)(1) and (5) of the Public Employee Relations Act (PERA).

By letter dated May 20, 2008, the Secretary requested that AFSCME amend its Charge to identify all of the dates it requested the job descriptions and the responses received from the Authority. In response to the Secretary's request, AFSCME filed an Amended Charge, alleging that it requested the information at a labor management meeting on March 31, 2008. However, AFSCME's Amended Charge did not specify all of the dates that the requests had been made and the responses received from the Authority.

The Secretary declined to issue a complaint, stating that the Board was unable to process AFSCME's Charge because it had failed to supply the information requested in the Secretary's letter of May 20, 2008. In determining whether to issue a complaint, the Board assumes that all facts alleged in the charge are true. Issuance of a complaint on a charge of unfair practices is not a matter of right, but is within the sound discretion of the Board. Pennsylvania Social Services Union, Local 668 v. PLRB, 481 Pa. 81, 392 A.2d 256 (1978).

In its exceptions, AFSCME argues that its Charge is timely because the Authority repeatedly indicated that it would provide the job descriptions to AFSCME. Section 1505 of PERA provides that no charge shall be entertained which relates to acts which occurred or statements which were made more than four months prior to the filing of the charge. A charge will be considered timely if it is filed within four months of when the charging party knew or should have known that an unfair practice was committed. Community College of Beaver County Society of Faculty, PSEA/NEA v. Beaver County Community College, 35 PPER ¶ 24 (Final Order, 2004).

AFSCME alleges in its exceptions that it requested the job descriptions on June 21, 2005, May 10, 2006, June 2007, March 4, 2008 and March 31, 2008, and that the Authority repeatedly indicated that it would provide the requested information to AFSCME but failed to do so. Information regarding bargaining unit members is presumptively relevant to the union's ability to carry out its collective bargaining obligations and must be provided to the union upon request. Commonwealth of Pennsylvania v. PLRB, 527 A.2d 1097 (Pa. Cmwlth. 1987). Moreover, the Board has held that an unreasonable or inexcusable delay in providing relevant information is a violation of an employer's statutory obligation to bargain in good faith. United Steelworkers of America v. Ford City Borough, 37 PPER ¶ 11 (Final Order, 2006)(citing North Hills Education Association, PSEA/NEA v. North Hills

School District, 29 PPER ¶ 29063 (Final Order, 1998)). Assuming that the Authority was obligated to provide the job descriptions to AFSCME, it was incumbent upon the Authority to do so within a reasonable amount of time after June 21, 2005.

However, AFSCME did not file its Charge until nearly three years after it first requested the job descriptions. Regardless of any assurances that were given by the Authority, AFSCME knew or should have known that the Authority was unreasonably delaying provision of the information long before 2008. Thus, AFSCME's May 2008 Charge is untimely because it was filed more than four months after AFSCME knew or should have known of the Authority's unreasonable delay in providing the job descriptions. Accordingly, the Secretary did not err in declining to issue a complaint and dismissing the Charge.

After a thorough review of the exceptions and all matters of record, the Board shall dismiss the exceptions and affirm the Secretary's decision declining to issue a complaint.

ORDER

In view of the foregoing and in order to effectuate the policies of the Public Employe Relations Act, the Board

HEREBY ORDERS AND DIRECTS

that the exceptions filed by AFSCME District Council 47, Local 2187 are dismissed and the Secretary's June 10, 2008 decision not to issue a complaint be and the same is hereby made absolute and final.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania pursuant to conference call meeting of the Pennsylvania Labor Relations Board, Anne E. Covey, Member and James M. Darby, Member, this nineteenth day of August, 2008. The Board hereby authorizes the Secretary of the Board, pursuant to 34 Pa. Code 95.81(a), to issue and serve upon the parties hereto the within Order.