



STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

JEANETTE G. GILLIGAN,)	
)	
Charging Party,)	Case No. SF-CO-378
)	
v.)	Administrative Appeal
)	
CALIFORNIA SCHOOL EMPLOYEES)	PERB Order No. Ad-218
ASSOCIATION,)	
)	December 7, 1990
Respondent.)	
)	

Appearances: Jeanette G. Gilligan, on her own behalf; Marci Seville, Staff Attorney, for California School Employees Association.

Before Hesse, Chairperson; Shank and Camilli, Members.

DECISION

SHANK, Member: This case is before the Public Employment Relations Board (PERB or Board) on a request by Jeanette G. Gilligan (Gilligan) to be excused from her failure to timely file an appeal of a Board agent's partial dismissal of her unfair practice charge. The appeal of the partial dismissal was mailed to PERB by Gilligan via regular first-class mail on September 24, 1990, the filing deadline, but was received by PERB on September 26, 1990. On September 27, 1990, the appeals assistant rejected the appeal as untimely filed. Gilligan filed this request on October 9, 1990.

DISCUSSION

In rejecting the appeal as untimely filed, the appeals assistant relied on PERB Regulation 32135¹ which provides:

32135. Filing. All documents shall be considered "filed" when actually received by the appropriate PERB office before the close of business on the last date set for filing or when sent by telegraph or certified or Express United States mail postmarked not later than the last day set for filing and addressed to the proper PERB office. (Emphasis added.)

PERB Regulation section 32635 states: "The original appeal . . . shall be signed by the charging party or its agent." Gilligan's appeal was unsigned and was mailed by regular mail on the final day for filing.

In the Board agent's partial dismissal letter of August 20, 1990,² Gilligan was apprised of PERB regulations pertaining to the filing of a timely appeal. The original due date for filing the appeal of the partial dismissal was September 14, 1990.³ On

¹PERB Regulations are codified at California Code of Regulations, title 3, section 17.

²We note that the first page of the partial dismissal letter is dated August 17, 1990. All subsequent pages are dated August 20, 1990.

³The due date is calculated by taking the August 20, 1990 date of the partial dismissal letter and adding the twenty day appeal period (PERB Regulation 32635) plus five days pursuant to PERB Regulation 32130(c).

or about September 13, 1990,⁴ Gilligan requested an extension of time to file her appeal stating that:

My request for this extension is because of the extreme stress I have been under to process and attend my termination hearing on Wednesday, Sept. 12. Attorney Phyllis Turner had my files for processing this hearing.

On September 13, 1990, the appeals assistant informed Gilligan that her request for an extension of time to file her appeal was granted, that the appeal would be due September 24, 1990, and that no further extensions of time would be granted.

In her request to be excused from her failure to meet the filing deadline, Gilligan sets forth the following reasons for her untimeliness: (1) on September 12, 1990 she experienced a "horrendously biased hearing"; (2) on September 20 she received the decision that she was to be terminated as of September 19, 1990; (3) she was having further deliberations with her attorney over her request for return of her files; (4) she has been suffering depression over the "harrasment [sic], prejudice and constant insults" she has experienced on the job for over a year; (5) she has been consoling her husband over the great loss of

⁴Gilligan's request for extension of time did not comply with PERB Regulation 32132(a) which requires that a request for extension of time in which to file any document with the Board "shall be filed . . . at least three days before the expiration of the time required for filing." The appeals assistant excused Gilligan's untimeliness, for good cause pursuant to PERB Regulation 32136 which provides:

A late filing may be excused in the discretion of the Board for good cause only. A late filing which has been excused becomes a timely filing under these regulations.

income and benefits resulting from her termination; and (6) her agoraphobia illness does not allow her the reaction time she should have.

The excuses set forth by Gilligan do not constitute good cause for an untimely filing. (PERB Regulation 32136.) Gilligan had previously relied on the September 12, 1990 hearing and the fact that her attorney had her files as the basis for her September 13, 1990 request for an extension of time for filing the appeal. Gilligan fails to demonstrate how the other factors she lists as reasons to excuse the late filing actually prevented her from properly filing a timely appeal.

ORDER

Gilligan's request to be excused from her failure to timely file an appeal of partial dismissal is DENIED.

Chairperson Hesse and Member Camilli joined in this Decision.