

STATE OF CALIFORNIA  
DECISION OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD



CESSALY D. HUTCHINSON,	)	
	)	
Charging Party,	)	Case No. SF-CO-39-S
	)	
v.	)	Administrative Appeal
	)	
CALIFORNIA STATE EMPLOYEES	)	PERB Order No. Ad-299-S
ASSOCIATION,	)	
	)	October 14, 1999
Respondent.	)	
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Appearance: Cessaly D. Hutchinson, on her own behalf.

Before Caffrey, Chairman; Dyer and Amador, Members.

DECISION

CAFFREY, Chairman: This case is before the Public Employment Relation Board (PERB or Board) on a request by Cessaly D. Hutchinson (Hutchinson) that the Board accept the late filed amendments to her appeal of a Board agent's dismissal of her unfair practice charge.

BACKGROUND

The Board agent's dismissal was served on the parties on July 12, 1999.<sup>1</sup> Pursuant to PERB Regulation 32635(a),<sup>2</sup>

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<sup>1</sup>All dates refer to 1999.

<sup>2</sup>PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq. Regulation 32635 states, in pertinent part:

- (a) Within 20 days of the date of service of a dismissal, the charging party may appeal the dismissal to the Board itself. The original appeal and five copies shall be filed in writing with the Board itself in the headquarters office, and shall be signed by the charging party or its agent. Except as

Hutchinson's appeal of the dismissal was due to be filed no later than August 6. On August 2, Hutchinson timely filed an appeal. However, on August 20, fourteen days after the filing deadline, with Hutchinson's permission, James Lorenzato filed an amendment to her appeal. On August 26, the PERB appeals assistant rejected the amendment as untimely filed.

On August 25, Hutchinson filed additional material to amend her appeal. On August 26, the PERB appeals assistant rejected this second amendment as untimely filed.

On August 30, Hutchinson filed additional material to amend her appeal. On August 30, the PERB appeals assistant rejected this third amendment as untimely filed.

On September 8, Hutchinson filed this appeal of the rejections indicating that the late filings were made "to provide the Board with as much information as possible."

#### DISCUSSION

PERB Regulation 32136 states, in pertinent part:

A late filing may be excused in the discretion of the Board for good cause only.

In applying this regulation, the Board has found good cause to excuse a late filing which resulted from exceptions being directed to the wrong PERB office. (North Orange County Regional Occupational Program (1990) PERB Decision No. 807.) The Board has found that the inadvertent, incorrect use of a postage meter

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provided in Section 32162, service and proof of service of the appeal on the respondent pursuant to Section 32140 are required.

resulting in an incorrect postmark represented good cause to excuse a late filing. (Trustees of the California State University (1989) PERB Order No. Ad-192-H.) The Board has also accepted late filings where a party made a good faith attempt to file in a timely manner but inadvertently used a delivery service not listed in PERB Regulation section 32135. (State of California (Department of Forestry and Fire Protection) (1998) PERB Order No. Ad-286-S; The Regents of the University of California (Davis, Los Angeles, Santa Barbara and San Diego) (1989) PERB Order No. Ad-202-H.) In this case, however, Hutchinson provides no justification for the lateness of her filings, referring only to a general desire on her part to give the Board as full and complete a picture as possible. Where a party provides no justification for his or her late filing, the Board is precluded from finding that good cause exists. (See, e.g., State of California (Department of Insurance) (1997) PERB Order No. Ad-282-S.) Therefore, the Board concludes that Hutchinson has not demonstrated good cause to excuse her late filings of the August 20, August 25 and August 30 amendments to her appeal.

ORDER

Cessaly D. Hutchinson's request that the Board accept her

late filed amendments to her appeal of the dismissal in Case No. SF-CO-39-s is hereby DENIED.

Members Dyer and Amador joined in this Decision.