

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



SEIU, LOCAL 1280, AFL-CIO,

Charging Party,

v.

COUNTY OF SOLANO (HUMAN RESOURCES
DEPARTMENT),

Respondent.

Case No. SF-CE-83-M

PERB Decision No. 1598-M

February 19, 2004

Appearances: Art Grubel, Executive Director, for SEIU Local 1280, AFL-CIO; Yolanda Irigon, Director of Human Resources, and Josie Jenkins, Assistant Director of Human Resources, for County of Solano (Human Resources Department).

Before Baker, Whitehead and Neima, Members.

DECISION

WHITEHEAD, Member: This case is before the Public Employment Relations Board (PERB or Board) on appeal by SEIU, Local 1280 (SEIU) of a Board agent's dismissal. The charge alleged that the County of Solano (Human Resources Department) (County) violated the Meyers-Milias-Brown Act (MMBA)¹ by its refusal to process grievances over its alleged discriminatory failure to place four unit members in a higher salary step of a promotional classification that would give them a five percent salary increase. SEIU alleged that this conduct constituted a violation of MMBA sections 3504 and 3505. In its amended charge, SEIU alleged that the County discriminated against the three employees based upon age and union activity because the three employees were not granted the same step increase as four other younger employees and SEIU represented the three in their grievances before the County.

¹MMBA is codified at Government Code section 3500 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code.

SEIU alleged that this conduct violated MMBA section 3505, Sections 19.A.3. (Grievance Procedure) and 2A (No Discrimination) of the parties Memorandum of Understanding.

The Board agent dismissed the charge for failing to state a prima facie case of either unilateral change or discrimination. On February 21, 2003, SEIU filed a timely one paragraph appeal of the Board agent's dismissal. It did not provide any information supporting the appeal. The County responded on March 18, 2003 that the appeal did not meet the requirements of PERB Regulation 32635² by not providing specific issues of procedure, fact or law that support an appeal, by identifying the portions of the dismissal being appealed, or provide the grounds for issues appealed. On October 7, 2003, several months after the appeal was due, two of the affected employees filed an "Informal Petition to Submit an Informational Brief," designed to "clarify" the basis for SEIU's appeal.

Upon review of the record, including the unfair practice charge, the amended charge, the Board agent's warning and dismissal letters, SEIU's appeal, the County's Response to SEIU's appeal, and the Informal Petition to Submit an Informational Brief, the Board denies SEIU's appeal and affirms the Board agent's dismissal.

DISCUSSION

We will first address the employees' Informal Petition to Submit an Informational Brief, filed with the Board in October 7, 2003, approximately 7 ½ months after the appeal was due. Under PERB Regulation 32136, a late filing may only be excused for good cause.³ The

²PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

³PERB Regulation 32136 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.

two petitioners did not provide any facts showing good cause for the delay, therefore the issues raised in the Informal Petition will not be addressed.

The Board finds that SEIU's appeal did not comply with the requirements of PERB Regulation 32635⁴ and dismisses the charge for failure to state a prima facie case of either unilateral change or unlawful discrimination.

ORDER

The unfair practice charge in Case No. SF-CE-83-M is hereby DISMISSED WITHOUT LEAVE TO AMEND.

Members Baker and Neima joined in this Decision.

⁴PERB Regulation 32635 provides, in pertinent part:

The Appeal shall:

- (1) State the specific issues of procedure, fact, law or rationale to which the appeal is taken;
- (2) Identify the page or part of the dismissal to which each appeal is taken;
- (3) State the grounds for each issue stated.