

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



SHERRY DINKINS,

Charging Party,

v.

SEIU LOCAL 1000, CSEA,

Respondent.

Case No. SA-CO-294-S

PERB Decision No. 1901-S

May 7, 2007

Appearance: Sherry Dinkins, on her own behalf.

Before Shek, Neuwald and McKeag, Members.

DECISION

SHEK, Member: This case comes before the Public Employment Relations Board (Board) on appeal by Sherry Dinkins (Dinkins) of the dismissal (attached) of her unfair practice charge. The charge alleged that the SEIU Local 1000, CSEA (SEIU) violated the Ralph C. Dills Act (Dills Act)¹ by failing to redirect Dinkins's "fair share" dues to a charitable organization. Dinkins alleged that this conduct constituted a violation of section 3515.7(c) of the Dills Act.

The Board has reviewed the entire record in this case, including but not limited to the unfair practice charge, SEIU's position statement, the warning and dismissal letters, and Dinkin's appeal. Based upon this review, the Board affirms the dismissal and adopts the Board agent's warning and dismissal letters as the decision of the Board itself.

¹The Dills Act is codified at Government Code section 3512, et seq.

ORDER

The unfair practice charge in Case No. SA-CO-294-S is hereby DISMISSED
WITHOUT LEAVE TO AMEND.

Members Neuwald and McKeag joined in this Decision.

PUBLIC EMPLOYMENT RELATIONS BOARD

Los Angeles Regional Office
3530 Wilshire Blvd., Suite 1435
Los Angeles, CA 90010-2334
Telephone: (213) 736-7508
Fax: (213) 736-4901



January 5, 2007

Sherry Dinkins
P.O. Box 162108
Sacramento, CA 95816

Re: Sherry Dinkins v. SEIU Local 1000, CSEA
Unfair Practice Charge No. SA-CO-294-S
DISMISSAL LETTER

Dear Ms. Dinkins:

The above-referenced unfair practice charge was filed with the Public Employment Relations Board (PERB or Board) on October 17, 2006. Sherry Dinkins alleges that the SEIU Local 1000, CSEA violated the Ralph C. Dills Act (Dills Act)¹ by failing and/or refusing to provide her with the documents necessary to become a religious objector.

I indicated to you in my attached letter dated December 19, 2006, that the above-referenced charge did not state a prima facie case. You were advised that, if there were any factual inaccuracies or additional facts which would correct the deficiencies explained in that letter, you should amend the charge. You were further advised that, unless you amended the charge to state a prima facie case or withdrew it prior to December 28, 2006, the charge would be dismissed.

I have not received either an amended charge or a request for withdrawal. Therefore, I am dismissing the charge based on the facts and reasons contained in my December 19, 2006, letter.

Right to Appeal

Pursuant to PERB Regulations,² you may obtain a review of this dismissal of the charge by filing an appeal to the Board itself within twenty (20) calendar days after service of this dismissal. (Regulation 32635(a).) Any document filed with the Board must contain the case name and number, and the original and five (5) copies of all documents must be provided to the Board.

¹ The Dills Act is codified at Government Code section 3512 et seq. The text of the Dills Act and the Board's Regulations may be found on the Internet at www.perb.ca.gov.

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

A document is considered "filed" when actually received during a regular PERB business day. (Regulations 32135(a) and 32130; see also Government Code section 11020(a).) A document is also considered "filed" when received by facsimile transmission before the close of business together with a Facsimile Transmission Cover Sheet which meets the requirements of Regulation 32135(d), provided the filing party also places the original, together with the required number of copies and proof of service, in the U.S. mail. (Regulations 32135(b), (c) and (d); see also Regulations 32090 and 32130.)

The Board's address is:

Public Employment Relations Board
Attention: Appeals Assistant
1031 18th Street
Sacramento, CA 95814-4174
(916) 322-8231
FAX: (916) 327-7960

If you file a timely appeal of the refusal to issue a complaint, any other party may file with the Board an original and five copies of a statement in opposition within twenty (20) calendar days following the date of service of the appeal. (Regulation 32635(b).)

Service

All documents authorized to be filed herein must also be "served" upon all parties to the proceeding, and a "proof of service" must accompany each copy of a document served upon a party or filed with the Board itself. (See Regulation 32140 for the required contents.) The document will be considered properly "served" when personally delivered or deposited in the mail or deposited with a delivery service and properly addressed. A document may also be concurrently served via facsimile transmission on all parties to the proceeding. (Regulation 32135(c).)

Extension of Time

A request for an extension of time, in which to file a document with the Board itself, must be in writing and filed with the Board at the previously noted address. A request for an extension must be filed at least three (3) calendar days before the expiration of the time required for filing the document. The request must indicate good cause for and, if known, the position of each other party regarding the extension, and shall be accompanied by proof of service of the request upon each party. (Regulation 32132.)

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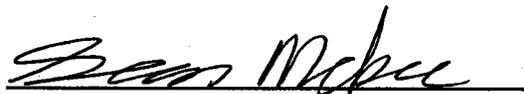
Final Date

If no appeal is filed within the specified time limits, the dismissal will become final when the time limits have expired.

Sincerely,

ROBIN WESLEY
Acting General Counsel

By



Sean McKee
Regional Attorney

Attachment: December 19, 2006 letter.

cc: Paul Harris, Chief Counsel

PUBLIC EMPLOYMENT RELATIONS BOARD

Los Angeles Regional Office
3530 Wilshire Blvd., Suite 1435
Los Angeles, CA 90010-2334
Telephone: (213) 736-7508
Fax: (213) 736-4901



December 19, 2006

Sherry Dinkins
P.O. Box 162108
Sacramento, CA 95816

Re: Sherry Dinkins v. SEIU Local 1000, CSEA
Unfair Practice Charge No. SA-CO-294-S
WARNING LETTER

Dear Ms. Dinkins:

The above-referenced unfair practice charge was filed with the Public Employment Relations Board (PERB or Board) on October 17, 2006. Sherry Dinkins alleges that the SEIU Local 1000, CSEA violated the Ralph C. Dills Act (Dills Act)¹ by failing and/or refusing to provide her with the documents necessary to become a religious objector.

Facts

In its entirety, Ms. Dinkins' charge states:

9/28/06 – [C]ontacted State Board of Control ... regarding redirection of Fair Share[.] [I] was directed to SEIU 1000, Unit 1[.] [I] [c]alled [the] Union office [and was informed] that there was no procedure in place [and that I] could not see the form unless I resigned from [the] union[.] [I] was also informed that [the] Union legal office had to approve the completed form. This is in violation of the Dills Act. State Board of Control is [the] approving agency. I was denied a copy of the form used to redirect my Fare Share so that I could review its contents and the procedure document describing the process because the union doesn't have one in place.

On November 2, 2006, Ms. Dinkins informed me that her religion's tenets prohibit her from supporting employee organizations. The State Controller's office informed Ms. Dinkins that her paychecks would continue to be deducted until the State Controller received the requisite forms from Local 1000.

¹ The Dills Act is codified at Government Code section 3512 et seq. The text of the Dills Act and the Board's Regulations may be found on the Internet at www.perb.ca.gov.

My investigation has revealed that Ms. Dinkins is a full-fledged member of Local 1000 and that she has not made any attempt to resign from Local 1000. Local 1000 has adopted a policy regarding religious objectors. In its entirety, Local 1000's policy states:

Any employee who is a member of a religious body described in Government Code Section 35.15.7(c) or whose religious practices or beliefs include objections to joining or financially supporting an employee organization may have a sum equal to the fair share fee paid to a charitable fund. Any fee payer who is a conscientious objector and has elected that his/her Fair Share Fee be paid to a charity shall be required to pay Local 1000 for the reasonable cost of providing individual representation in any grievance, arbitration, or administrative hearing under Government Code Section 3515.7(f).

Local 1000 does not dispute the fact that Ms. Dinkins was denied the forms one must complete to become a religious objector. Instead, Local 1000 argues that Ms. Dinkins cannot become a religious objector until she resigns her membership in Local 1000.

Discussion

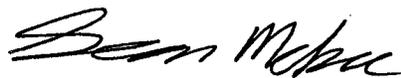
In relevant part, Dills Act Section 3515.7(c) states:

[A]ny employee who is a member of a religious body whose traditional tenets or teachings include *objections to joining or financially supporting* employee organizations shall not be required to financially support the recognized employee organization. That employee, in lieu of a membership fee or a fair share fee deduction, shall instruct the employer to deduct and pay *sums equal to the fair share fee* to a nonreligious, nonlabor organization, charitable fund approved by the State Board of Control for receipt of charitable contributions by payroll deductions. (Emphasis added.)

As stated above, Ms. Dinkins alleges that her religion's tenets prohibit her from supporting employee organizations. Nonetheless, Ms. Dinkins continues to participate as a member of Local 1000. Ms. Dinkins pays regular membership dues (not fair share fees) based on her voluntary decision to remain a union member. Section 3515.7(c) requires employee organizations to allow payment of sums equal to the fair share fee to a nonreligious, nonlabor organization, charitable fund for persons who qualify as religious objectors under section 3515.7(c). It appears that Local 1000 informed Ms. Dinkins that the first step in becoming a religious objector is to resign from the Union. Local 1000's requirement that religious objectors resign from the union is consistent with the definition of a religious objector in section 3515.7(c). Accordingly, Ms. Dinkins has failed to show that Local 1000 violated the Act by requiring her to resign as part of the process of becoming a religious objector.

For these reasons the charge, as presently written, does not state a prima facie case. If there are any factual inaccuracies in this letter or additional facts that would correct the deficiencies explained above, please amend the charge. The amended charge should be prepared on a standard PERB unfair practice charge form, clearly labeled First Amended Charge, contain all the facts and allegations you wish to make, and be signed under penalty of perjury by the charging party. The amended charge must have the case number written on the top right hand corner of the charge form. The amended charge must be served on the respondent's representative and the original proof of service must be filed with PERB. If I do not receive an amended charge or withdrawal from you before December 28, 2006, I shall dismiss your charge. If you have any questions, please call me at the above telephone number.

Sincerely,



Sean McKee
Regional Attorney

SM