

STATE OF CALIFORNIA  
DECISION OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD



INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, LOCAL 1245,

Charging Party,

v.

TURLOCK IRRIGATION DISTRICT,

Respondent.

Case No. SA-CE-767-M

PERB Decision No. 2413-M

February 25, 2015

Appearances: Leonard Carder by Sanford N. Nathan, Attorney, and Alexander Pacheco, Attorney, for International Brotherhood of Electrical Workers, Local 1245; Littler Mendelson by Bruce J. Sarchet, Attorney, for Turlock Irrigation District.

Before Martinez, Chair; Huguenin and Winslow, Members.

DECISION

WINSLOW, Member: This case is before the Public Employment Relations Board (PERB or Board) on exceptions filed by the International Brotherhood of Electrical Workers, Local 1245 (IBEW) to the proposed decision of a PERB administrative law judge (ALJ). The complaint alleged that the Turlock Irrigation District (District) violated the Meyers-Milias-Brown Act (MMBA)<sup>1</sup> by unilaterally terminating a past practice of compensating employees who were mistakenly denied overtime assignments when they were skipped over on the overtime call-out list. The complaint alleged that this conduct constituted a violation of MMBA sections 3503, 3505, and 3506, and constituted an unfair practice under MMBA section 3509(b) and PERB Regulation 32603(a), (b) and (c).<sup>2</sup>

<sup>1</sup> MMBA is codified at Government Code section 3500 et seq.

<sup>2</sup> PERB Regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

The formal hearing was held on April 9 and 10, 2013. On August 26, 2013, the case was submitted for decision following receipt of post-hearing briefs. The ALJ issued the proposed decision on November 8, 2013, dismissing the complaint on the grounds that no past practice had been established. On December 19, 2013, IBEW filed exceptions to the proposed decision, and the District responded on January 28, 2014.

On January 27, 2015, IBEW sent a letter to the Board, which states, in pertinent part:

The International Brotherhood of Electrical Workers, Local Union 1245 would like to immediately withdraw its filed exceptions and charge against Turlock Irrigation District in Case No. SA-CE-767-M.

By letter from the PERB Appeals Assistant dated February 6, 2015, the Board sought clarification from the parties regarding the possible withdrawal of this case. The letter states:

Before taking action on this request, the Board solicits the position of respondent Turlock Irrigation District with respect to the requested withdrawal of the unfair practice charge, which will vacate the proposed decision in this case.

We also commend to the parties' attention *County of Fresno* (2013) PERB Decision No. 2352-M, in which the Board permitted the withdrawal of an underlying unfair practice charge and dismissal of PERB's complaint after the issuance of a proposed decision on the condition that the withdrawal be with prejudice. If the parties here mutually seek withdrawal of the charge and dismissal of the PERB complaint, the Board would take the same action in this case, viz., approving withdrawal on the condition that it be with prejudice.

If it is not the parties' mutual intention that the underlying unfair practice charge be withdrawn with prejudice and that the proposed decision be vacated, please so advise in writing by February 17, 2015.

As stated in its response letter dated February 11, 2015, the District "is in agreement that the underlying charge and Complaint should be dismissed with prejudice, and that the Proposed Decision be vacated." The Board did not receive a response from IBEW.

The Board has the discretion to grant or deny requests to withdraw and dismiss cases pending before the Board itself. (PERB Reg. 32320(a)(2) [“The Board itself may: . . . take such other action as it considers proper.”]; *State of California (Department of Personnel Administration)* (2010) PERB Decision No. 2152-S; *Grossmont-Cuyamaca Community College District* (2009) PERB Order No. Ad-380; *Oakland Unified School District* (1988) PERB Order No. Ad-171a; *ABC Unified School District* (1991) PERB Decision No. 831b.)

Here, neither of the parties in Case No. SA-CE-767-M objects to the disposition described above. The Board has a longstanding policy favoring voluntary settlement of disputes. (*Dry Creek Joint Elementary School District* (1980) PERB Order No. Ad-81.) Based on the Board’s review of IBEW’s request, and the entire record in this matter, the Board finds the request to be in the best interest of the parties and consistent with the purposes of the MMBA to promote harmonious labor relations.

#### ORDER

The request by the International Brotherhood of Electrical Workers, Local 1245 (IBEW) in Case No. SA-CE-767-M is hereby GRANTED. IBEW’s exceptions to the proposed decision are deemed withdrawn. The unfair practice charge is DISMISSED WITH PREJUDICE. The complaint is dismissed and the proposed decision is hereby vacated.

Chair Martinez and Member Huguenin joined in this Decision.