

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



ASSOCIATION OF CALIFORNIA STATE)
ATTORNEYS AND HEARING OFFICERS,)
)
Charging Party,) Case No. S-CE-22-S
APPELLANT,)
)
v.) PERB Order No. Ad-109-S
)
STATE OF CALIFORNIA, FRANCHISE) Administrative Appeal
TAX BOARD,)
) May 13, 1981
)
Respondent.)
)
_____)

Appearances: Edward L. Faunce, Attorney (Lemaire, Faunce & Katznelson) and Paul J. Petrozzi, Attorneys for the Association of California State Attorneys and Hearing Officers.

Before Gluck, Chairperson; Jaeger and Moore, Members.

DECISION

This case is before the Public Employment Relations Board (hereafter PERB or Board) on an appeal by the Association of California State Attorneys and Hearing Officers to the attached determination by the executive assistant to the Board that exceptions to the proposed decision in this case were not timely filed. The PERB rules governing the filing of exceptions to a Board agent's proposed decision are unequivocal and unambiguous.¹

¹PERB Rules are codified at title 8, section 31000 et seq. of the California Administrative Code. Section 32135 provides:

All documents shall be considered "filed" by a party when actually received by the proper recipient before the close of business on the last date set for filing.

Section 32300(a) provides in pertinent part:

Appellant has not demonstrated the existence of extraordinary circumstances which would justify the late filing of the exceptions as required by PERB Rule 32133.²

ORDER

The Board affirms the determination of the executive assistant to the Board and DENIES the appeal.

PER CURIAM

A party may file with the Board itself an original and four copies of a statement of exceptions to a Board agent's proposed decision issued pursuant to Section 32215, and supporting brief, within 20 days following the date of service of the decision. The statement of exceptions and briefs shall be filed with the Executive Assistant to the Board. . . .

²PERB Rule 32133 reads:

A late filing may be excused in the discretion of the Board only under extraordinary circumstances.

PUBLIC EMPLOYMENT RELATIONS BOARD

Headquarters Office
923 12th Street, Suite 201
Sacramento, California 95814
(916) 322-3088



March 31, 1981

Paul J. Petrozzi, Staff Counsel
Association of California State
Attorneys & Hearing Officers
P.O. Box 681
Sacramento, CA 95803

Re: Association of California State Attorneys and Hearing Officers vs.
State of California (Franchise Tax Board) Case No. S-CE-22-S

Dear Mr. Petrozzi:

This office is in receipt of documents entitled "Charging Party's Appeal from Proposed Decision in Unfair Practice Charge" which were hand delivered to the Los Angeles Regional Office of this Agency on Tuesday March 24, 1981.

Sections 32300 and 32135 of the California Administrative Code require that exceptions to proposed decisions be filed with the Executive Assistant to the Board in the Headquarters Office.

Because the documents were not properly filed in this office on the date they were due, it is my determination that the exceptions are not timely filed and are, accordingly, dismissed.

Pursuant to Section 32360 of the Board's rules, you may appeal this dismissal to the Board itself. Should you choose to do so, your appeal must be filed in this office on or before Friday April 10, 1981. A copy of your appeal should also be served on all parties to this case.

Sincerely,

J. Stephen Barber
Executive Assistant to the Board

tn:sb

cc: Barbara T. Stuart, Esq.
Chief Counsel
GORE
1230 J Street, Room 232
Sacramento, CA 95814