

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



SYLVIA ROBINSON,)
)
 Charging Party,) Case No. LA-CE-3551
)
 v.) Administrative Appeal
)
 LOS ANGELES UNIFIED SCHOOL DISTRICT,) PERB Order No. Ad-272
)
 Respondent.) January 19, 1996
 _____)

Appearances: Sylvia Robinson, on her own behalf; Rochelle J. Montgomery, Attorney, for Los Angeles Unified School District.

Before Caffrey, Chairman; Garcia and Johnson, Members.

DECISION

GARCIA, Member: This case is before the Public Employment Relations Board (PERB or Board) on appeal by Sylvia Robinson (Robinson) of the PERB appeals assistant's rejection of Robinson's appeal of a Board agent's dismissal of the unfair practice charge she filed against the Los Angeles Unified School District (District).

PROCEDURAL HISTORY

The dismissal of Robinson's unfair practice charge was served on the parties by mail on September 7, 1995. PERB Regulation 32635(a)¹ requires that an appeal of a dismissal of an

¹PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq. PERB Regulation 32635 states, in 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

unfair practice charge be filed with the Board itself within 20 days of the date of service of the dismissal. PERB Regulation 32130(c)² provides a five-day extension of the filing deadline in response to documents served by mail. Accordingly, an appeal of the dismissal of Robinson's charge was due to be filed with the Board no later than October 2, 1995.

On September 8, 1995, Robinson wrote to the Board indicating that she was appealing a Board agent's dismissal. The September 8 letter was not accompanied by a proof of service or any indication of what case was being appealed. On September 12, 1995, the appeals assistant wrote to Robinson requesting a proof of service for the letter and an indication of what case was being appealed.

On September 21, 1995, Robinson filed a document labeled "Appeal" which was different from the September 8 letter. This "Appeal" was not signed or accompanied by a proof of service showing that the appeal had been served on the District.

filed in writing with the Board itself in the headquarters office, and shall be signed by the charging party or its agent. Except as provided in Section 32162, service and proof of service of the appeal on the respondent pursuant to Section 32140 are required.

²PERB Regulation 32130(c) states:

(c) The extension of time provided by California Code of Civil Procedure section 1013, subdivision (a), shall apply to any filing made in response to documents served by mail.

On September 25, 1995, the appeals assistant sent a letter to Robinson reiterating that if she intended the September 8 letter to operate as her appeal she would need to serve it on the District and indicate what case was being appealed. The letter also requested that if the document entitled "Appeal" was to serve as her appeal of the dismissal she needed to provide PERB with a signed copy of the appeal and a proof of service. The appeals assistant gave Robinson until October 5, 1995 to perfect her appeal.

Having received no response from Robinson, on October 12, 1995, the appeals assistant wrote to Robinson informing her that the Board agent's dismissal of her charge was final. The appeals assistant also informed Robinson that the rejection of her appeal was appealable to the Board itself.

On October 16, 1995, Robinson wrote to the Board stating, in pertinent part:

My initial inquiry to you [September 8 letter] was in letter format and meant to be only an inquiry into the appeals process.

My appeal was labeled "APPEAL" and sent with the Proofs of Service attached after I received those documents from you in the mail.³

On October 24, 1995, the appeals assistant wrote to the parties informing them that Robinson's October 16 letter was being considered an appeal of the appeals assistant's October 12

³The proof of service showed that the "Appeal" was served on PERB. There was no proof of service showing that the District had been served with a copy of Robinson's appeal.

rejection of Robinson's appeal of a Board agent's dismissal of her unfair practice charge. The appeals assistant's letter also informed the District of its right to respond to Robinson's appeal.

The District filed a response which asserted that Robinson's appeal is defective and should be dismissed.

DISCUSSION

PERB Regulation 32360 provides, in part:

(a) An appeal may be filed with the Board itself from any administrative decision, except as noted in Section 32380.

(c) The appeal must be in writing and must state the specific issue(s) of procedure, fact, law or rationale that is appealed and state the grounds for the appeal.

Robinson's October 16, 1995 appeal fails to state the grounds for her appeal of the appeals assistant's rejection of her underlying appeal. Nor does it explain why she failed to perfect the appeal of the dismissal of her charge as directed by the appeals assistant. Accordingly, Robinson has failed to comply with PERB Regulation 32360 and her appeal must be denied.

ORDER

The appeal of the PERB appeals assistant's rejection of Sylvia Robinson's appeal of a Board agent's dismissal of her unfair practice charge in Case No. LA-CE-3551 is hereby DENIED.

Chairman Caffrey and Member Johnson joined in this Decision.