

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



COALITION OF UNIVERSITY EMPLOYEES,
LOCAL 6,

Charging Party,

v.

REGENTS OF THE UNIVERSITY OF
CALIFORNIA (SAN FRANCISCO),

Respondent.

Case No. SF-CE-780-H

Administrative Appeal

PERB Order No. Ad-353-H

May 18, 2006

Appearance: Terrence Ryan, Representative, for Coalition of University Employees, Local 6.
Before Duncan, Chairman; Shek and McKeag, Members.

DECISION

DUNCAN, Chairman: This case is before the Public Employment Relations Board (PERB or Board) on appeal by the Coalition of University Employees, Local 6 (CUE) following the PERB Appeals Assistant's administrative determination based on the untimely filing of CUE's appeal of a Board agent's dismissal of its unfair practice charge.

After reviewing the entire record in this matter, including the appeal document, the denial of the appeal as untimely and the appeal of the administrative determination filed by CUE, the Board finds good cause does not exist to excuse the untimely filed appeal of the dismissal of the unfair practice charge. Therefore, the Board declines to accept the untimely appeal of the dismissal of the charge, as set forth below.

BACKGROUND

CUE was served with the Board agent's dismissal of its unfair practice charge on February 9, 2006. The appeal of the dismissal was due on or before March 6, 2006. CUE mailed the appeal by regular U.S. Mail on February 17, 2006. There was insufficient postage

on the appeal envelope and the appeal was returned to CUE for additional postage. The additional postage was then applied and the appeal was re-sent arriving at PERB on March 16, 2006, ten days late.

CUE appeals the administrative determination without support of any authority. The explanation in the appeal of the administrative determination is that there is no clerical staff and the union representative or organizer is relied on to handle the clerical responsibilities. According to the March 22, 2006, administrative appeal from CUE, the reason for the lack of sufficient postage was stated as "Due to a clerical error and a quirk of the union's postage meter we applied insufficient postage to the appeal. The machine defaults to the regular postage amount."

DISCUSSION

PERB Regulation 32136¹ provides that "[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."

The Board has determined there was not good cause when the request for acceptance of a late filing was based on an unspecified reference to a postal or clerical error. In Coachella Valley Unified School District (1998) PERB Order No. Ad-292, the Board noted that the charging party provided ". . . no justification for the lateness of his filing, referring only to some unspecified 'postal or clerical delay.' Where a party provides no justification for his late filing, the Board is precluded from finding that good cause exists. (See, e.g., State of California (Department of Insurance) (1997) PERB Order No. Ad-282-S)."

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

PERB regulations addressing an appeal of Board agent dismissals are set out at Section 32635(a) and state, in pertinent part, that the appeal shall:

- (1) State the specific issue 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.

Here, CUE states that it has a postage meter with a "quirk" in it that has evidently caused prior problems with affixing the correct postage, yet the appeal envelope apparently was not checked to confirm that it was mailed with the correct postage for it to be timely received at PERB.

PERB regulations also allow for the filing of documents by facsimile and this option was available but not utilized. The Board agent's dismissal letter of February 9, 2006, sets out the requirements for timely filing under PERB regulations. CUE has not demonstrated good cause to excuse the untimely filing of its appeal.

ORDER

The Coalition of University Employees, Local 6's request that the Board accept its late-filed appeal in Case No. SF-CE-780-H is hereby DENIED.

Members Shek and McKeag joined in this Decision.