

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



MARION W. ISOM,

Charging Party,

v.

SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 1000,

Respondent.

Case No. SA-CO-370-S

Administrative Appeal

PERB Order No. Ad-375-S

August 13, 2008

Appearances: Marion W. Isom, on her own behalf; Brooke D. Pierman, Attorney, for Service Employees International Union Local 1000.

Before Neuwald, Chair; McKeag and Wesley, Members.

DECISION

WESLEY, Member: This case is before the Public Employment Relations Board (PERB or Board) on an administrative appeal by Marion W. Isom (Isom) of the PERB Appeals Assistant's denial of Isom's late-filed request for an extension of time to appeal the dismissal of her unfair practice charge. Isom's charge alleged that the Service Employees International Union Local 1000 (Local 1000) breached its duty of fair representation in violation of the Ralph C. Dills Act (Dills Act)¹ by failing to provide her with adequate representation.

The Board has reviewed the entire record in this case. For the reasons set forth below, the Board finds that good cause does not exist to excuse the late filing.

BACKGROUND

On January 15, 2008,² Isom filed an unfair practice charge with PERB. The charge alleged that Local 1000 failed to adequately represent Isom in a dispute with her employer and assist her with an Equal Employment Opportunity Commission complaint. On February 13,

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

²Dates hereafter refer to 2008.

the Board agent issued a warning letter informing Isom that the charge was deficient in that it failed to state a prima facie case. No response was received to the warning letter before the Board agent issued a dismissal letter on March 26.

The dismissal letter sets forth the procedures to appeal a charge dismissal, including the timeframe and manner in which to request an extension of time to file an appeal. The dismissal letter states, in relevant part:

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.)³

An appeal of the dismissal of Isom's charge was due to be filed by April 21. On April 18, Isom left a voicemail message requesting an extension of time to file an appeal with the Board agent who dismissed her charge. The Board agent returned Isom's call on April 21, the next business day, advising her to request an extension from the Appeals Assistant.

Isom filed a written request for an extension of time with the Appeals Assistant on April 21. On April 22, the Appeals Assistant denied the extension request as untimely and also noted that Isom failed to submit a proof of service showing service of her extension request on Local 1000. The Appeals Assistant informed Isom she had 10 days to appeal the administrative determination.

Isom filed the instant administrative appeal on May 1, stating she was not aware that she should have requested the extension of time from the Board's Appeals Assistant. In response to the appeal, Local 1000 argued that Isom received sufficient notice of the

³PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

requirements to request an extension of time and failed to demonstrate that good cause should excuse her late filing.

DISCUSSION

Under PERB Regulation 32132, a party requesting an extension of time must file their request in writing at least three days before expiration of the time to file an appeal. PERB Regulation 32136 states:

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.

In San Leandro Unified School District (2007) PERB Order No. Ad-366, the Board held that parties have a duty to review the documents pertaining to their case. Similarly, in Los Angeles Unified School District (1993) PERB Order No. Ad-247, the Board did not find good cause where the charging party failed to review the PERB documents setting forth the filing deadline.

In the present case, Isom contacted the Board agent by phone on the last day for filing an extension request, rather than submitting a written request to the Appeals Assistant. PERB regulations require that the request must be in writing and filed with the Appeals Assistant at least three days prior to the deadline for filing an appeal. These procedures were clearly set forth in the dismissal letter. Isom did not attempt to comply with the extension request procedures by submitting a timely written request to the Appeals Assistant. Isom's failure to review the procedures set forth in the dismissal letter does not demonstrate good cause to excuse the late-filed extension request.

ORDER

Marion W. Isom's administrative appeal of her late-filed request for an extension of time to appeal the dismissal of her unfair practice charge in Case No. SA-CO-370-S is hereby DENIED.

Chair Neuwald and Member McKeag joined in this Decision.