

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL**

Theodis Ivy,)	
)	
Charging Party)	
)	
and)	Case No. L-CA-12-050
)	
City of Chicago,)	
)	
Respondent)	

**DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL**

On April 23, 2012, Executive Director John F. Brosnan issued an order dismissing the unfair labor practice charge filed by Theodis Ivy (Charging Party) in the above-captioned case. The Charging Party alleged that the City of Chicago (Respondent) engaged in unfair labor practices within the meaning of Section 10(a) of the Illinois Public Labor Relations Act, 5 ILCS 315/10 (2010), as amended (Act), by not providing him an opportunity to work overtime during the October 2011 Chicago Marathon in accordance with his seniority rights under a collective bargaining agreement. On April 28, 2012, Charging Party filed a timely appeal of the Executive Director's dismissal pursuant to Section 1200.135 of the Rules and Regulations of the Illinois Labor Relations Board, 80 Ill. Admin. Code Parts 1200 through 1240 (Board's Rules). The Respondent filed no response.

After reviewing the record and the appeal, we uphold the Executive Director's dismissal order. The Executive Director had dismissed the charge because Charging Party had not responded to a Board agent's request for additional information that might

indicate a violation of Section 10(a) of the Act. In doing so, he acted in accordance with the Section 1220.40(a)(1) of the Board's Rules.¹ In his appeal, Charging Party states simply (and fatally): "[o]ur rights were violated according to the collective bargaining agreement of our union." He asserted that Respondent could not negate the fact that those with seniority supersede those with less seniority, and predicts that if the Board does not order Respondent to protect seniority rights, its practice will continue.

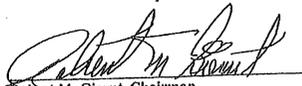
The appeal shows that Charging Party maintains a misunderstanding of the Board's role. Section 8 of the Act requires that, except where the parties agree otherwise, each collective bargaining agreement contain a grievance resolution procedure culminating in binding arbitration. Admin. Ofc. of the Ill. Courts v. State and Mun. Teamsters, Chauffers and Helpers Union, Local 726, 167 Ill. 2d 180, 193 (1995). Such awards are reviewable only in a circuit court pursuant to the Uniform Arbitration Act, 710 ILCS 5 (2010); Am. Fed'n of State, County and Mun. Employees, Council 31 v. Schwartz, 343 Ill. App. 3d 553, 566-67 (5th Dist. 2003); Dep't of Cent. Mgmt. Servs. v. Am. Fed'n of State, County and Mun. Employees, Council 31, 222 Ill. App. 3d 678, 682 (1st Dist. 1991). The complained of activity concerning a single episode of non-compliance with a single provision of a collective bargaining agreement obviously falls far short of asserting a repudiation of the collective bargaining agreement, conduct that might constitute a violation of Section 10(a)(4) of the Act and be within the Board's jurisdiction.

¹ Section 1220.40(a)(1) provides: "The Charging Party shall submit to the Board or its agent all evidence relevant to or in support of the charge.... If the charging party does not comply with the agent's requests for information and documents, the agent may recommend dismissal of the charge." 80 Ill. Admin. Code 1220.40(a)(1). See also SEIU Local 880 (Kirk), 12 PERI ¶2006 (IL SLRB 1995), aff'd by unpub. order, 13 PERI ¶4008 (Ill. App. Ct., 4th Dist., 1996), and State of Ill, Dep't of Cent. Mgmt. Serv. (Dep't of Rehabilitative Serv.), 12 PERI ¶2005 IIL SLRB 1995), aff'd by unpub. order, 13 PERI ¶4008 (Ill. App. Ct., 4th Dist., 1996).

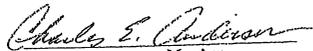
In short, the allegation in the charge, raising an allegation of a single instance of a violation of a collective bargaining agreement, does not allege a violation of the Illinois Public Labor Relations Act or a matter within the jurisdiction of the Board. The Board agent was right to request additional information, and when Charging Party failed to respond to that request, the Executive Director was right to dismiss the charge.

The Executive Director's order dismissing the complaint is affirmed.

BY THE LOCAL PANEL OF THE ILLINOIS LABOR RELATIONS BOARD²



Robert M. Gierut, Chairman



Charles E. Anderson, Member

Decision made at the Local Panel's public meeting in Chicago, Illinois, July 10, 2012; written decision issued in Chicago, Illinois on August 8, 2012.

² Board Member Richard Lewis recused himself from consideration of this case.

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
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Theodis Ivy,)	
)	
Charging Party)	
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City of Chicago,)	
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DISMISSAL

On March 12, 2012, Theodis Ivy (Charging Party) filed a charge in Case No. L-CA-12-050, with the Local Panel of the Illinois Labor Relations Board (Board), in which he alleged that the City of Chicago (Respondent) engaged in unfair labor practices within the meaning of Section 10(a) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2010), *as amended* (Act). After an investigation conducted in accordance with Section 11 of the Act, I determined that the charge fails to raise an issue of law or fact sufficient to warrant a hearing and issue this dismissal for the following reasons.

I. INVESTIGATORY FACTS AND POSITION OF THE CHARGING PARTY

The Respondent employs the Charging Party as a Motor Truck Driver in the Department of Streets and Sanitation. As such, he is included in a bargaining unit represented by Local 700 of the International Brotherhood of Teamsters (Union). The Union and Respondent are parties to a collective bargaining agreement (Agreement) setting out terms and conditions of employment for employees in the Unit, including the Charging Party.

In the charge, Ivy alleges that the Respondent violated the Act by failing to provide him the opportunity to work overtime during the weekend when the city hosted the Chicago Marathon in October 2011. By letter dated March 16, 2012, the Board agent assigned to this case requested that the Charging Party provide evidence and authority in support of his allegations in the charge, including support for the proposition that the Respondent's conduct involved his rights under the Act. To date, the Charging Party has not responded to the Board agent's request for information in support of the charge.

II. DISCUSSION AND ANALYSIS

Section 1220.40(a)(1) of the Board's Rules and Regulations, 80 Ill. Admin. Code Sections 1200 through 1240, provides that "[t]he Charging Party shall submit to the Board or its agent all evidence relevant to or in support of the charge." The Board has interpreted this rule as allowing the executive director to dismiss the case where a charging party has not complied with a request for evidence in support of a charge. SEIU Local 880 (Kirk, et al.), 12 PERI ¶2006 (IL SLRB 1995), aff'd by unpub. order, 13 PERI ¶4008 (1996); State of Illinois, Department of Central Management Services (Department of Rehabilitation Services), 12 PERI ¶2005 (IL SLRB 1995), aff'd by unpub. order, 13 PERI ¶4008 (1996).

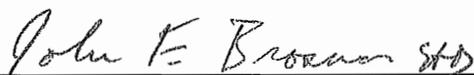
In the instant matter, the Charging Party failed to file a position statement in response to a request from the Board agent assigned to the case, and without the requested information, it is impossible to determine whether there exists an issue of law or fact warranting a hearing. Under these circumstances, the charge merits dismissal for failure to provide that information.

III. ORDER

Accordingly, the instant charge is hereby dismissed. The Charging Party may appeal this dismissal to the Board any time within 10 days of service hereof. Such appeal must be in writing, contain the case caption and number, and must be addressed to the Board's General Counsel, 160 North LaSalle Street, Suite S-400, Chicago, Illinois, 60601-3103. The appeal must contain detailed reasons in support thereof, and the Charging Party must provide it to all other persons or organizations involved in this case at the same time it is served on the Board. The appeal sent to the Board must contain a statement listing the other parties to the case and verifying that the appeal has been provided to them. The appeal will not be considered without this statement. If no appeal is received within the time specified, this dismissal will be final.

Issued in Chicago, Illinois, this 23rd day of April, 2012.

ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL



John F. Brosnan, Executive Director