

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

| | | |
|----------------------------|---|----------------------|
| Debra Larkins, |) | |
| |) | |
| Charging Party, |) | |
| |) | |
| and |) | Case No. L-CA-16-006 |
| |) | |
| Chicago Transit Authority, |) | |
| |) | |
| Respondent. |) | |

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

On September 29, 2015, Executive Director Melissa Mlynski dismissed a charge filed by Charging Party Debra Larkins (Charging Party) in the above-captioned case. In her charge, the Charging Party alleged Respondent Chicago Transit Authority (Respondent) violated Section 10(a) of the Illinois Public Labor Relations Act, 5 ILCS 315/10(a) (2014) as amended, when it failed to reinstate her and failed to arbitrate her grievance.

The Executive Director dismissed the charge finding that the Charging Party's allegations regarding her discharge were untimely and that there was no evidence suggesting the Respondent had refused to arbitrate her grievance. Charging Party filed a timely appeal of the Executive Director's Dismissal pursuant to Section 1200.135(a) of the Board's Rules and Regulations, 80 Ill. Adm. Code § 1200.135(a). The Respondent filed no response. After reviewing the record and appeal, we affirm the Executive Director's Dismissal for the reasons stated in that document.

BY THE ILLINOIS LABOR RELATIONS BOARD, LOCAL PANEL

/s/ Robert Gierut
Robert Gierut, Chairman

/s/ Charles Anderson
Charles Anderson

s/ Richard Lewis
Richard Lewis

Decision made at the Local Panel's public meeting in Chicago, Illinois on December 15, 2015,
written decision issued in Chicago, Illinois on January 29, 2016.

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

Debra Larkins,

Charging Party

and

Chicago Transit Authority,

Respondent

Case No. L-CA-16-006

DISMISSAL

On August 4, 2015, Debra Larkins (Charging Party) filed an unfair labor practice charge with the Local Panel of the Illinois Labor Relations Board (Board), in Case No. L-CA-16-006, alleging that the Chicago Transit Authority (CTA or Respondent) violated Section 10(a) of the Illinois Public Labor Relations Act (Act), 5 ILCS 315 (2014), *as amended*. 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 hereby issue this dismissal for the reasons stated below.

I. INVESTIGATION

The Respondent is a public employer within the meaning of Section 3(o) of the Act. The Charging Party was employed by the Respondent as a Bus Operator. The Amalgamated Transit Authority (ATU), Local 241 is the exclusive representative of a bargaining unit (Unit) of the Respondent's employees, including employees in the title of Bus Operator. Respondent and the ATU are parties to a collective bargaining agreement (CBA) for the Unit which provides for a grievance procedure culminating in arbitration.

On or about February 16, 2009, Charging Party was terminated from employment for safety violations. Charging Party and/or the ATU filed a grievance and the ATU submitted the grievance to arbitration. The arbitrator issued an award (Award) sustaining the grievance on or about December 29, 2011. Respondent subsequently reinstated the Charging Party. However, the arbitrator said that Charging Party was subject to a ninety day probation in which she could be discharged for a safety violation. That probation period passed, but Charging Party was put on probation from July 7, 2012 through January 7, 2013 for “Missed Assignments.” On or about October 20, 2012, Charging Party allegedly failed to report for her scheduled work assignment and Respondent discharged her on November 12, 2012.

In May of 2014, Charging Party filed charges against CTA in Case Nos. L-CA-14-068, L-CA-14-069 and L-CA-14-080, alleging that the CTA violated the Act when it did not pay her back pay in accordance with the Award and when it refused to reinstate her after the November 2012 discharge. I dismissed all three charges on August 20, 2014, and the Board subsequently upheld the dismissals on December 30, 2014. See Larkins and Chicago Transit Authority, 31 PERI ¶ 110 (ILRB-LP 2014).¹

In the instant charge, Charging Party claims that CTA violated the Act because it has failed to reinstate her or arbitrate her case. Charging Party claims that others have been reinstated who were once discharged and that she has not been reinstated without any probable cause. In support of her charge, the Charging Party supplied reinstatement documents for other Unit employees, although the circumstances that lead to those employees being discharged and then reinstated are unknown.

¹ In May of 2014, Charging Party also filed charges against the ATU, in Case Nos. L-CB-14-30, L-CB-14-34 and L-CB-14-35, alleging that ATU failed to arbitrate grievance(s) challenging her November 2012 discharge in a timely manner. I dismissed these charges on August 20, 2014 and the Board upheld the Dismissal on December 30, 2014. See Larkins and Amalgamated Transit Unit, Local 241, 31 PERI ¶ 111 (ILRB-LP 2014).

II. DISCUSSION AND ANALYSIS

Pursuant to Section 11(a) of the Act, “no complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of a charge with the Board... unless the person aggrieved thereby did not reasonably have knowledge of the alleged unfair labor practice.” The six month limitations period begins to run when an employee or exclusive representative has knowledge of the alleged unlawful conduct or reasonably should have known of it. Moore v. ISLRB, 206 Ill. App. 3d 327, 564 N.E.2d 213, 7 PERI ¶4007 (1990); Service Employees International Union, Local 46 (Evans), 16 PERI ¶3020 (IL LLRB 2000); Teamsters (Zaccaro), 14 PERI ¶3014 (IL LLRB 1998), aff’d by unpub. order, Docket Nos. 1-98-2382 and 1-98-3014, 16 PERI ¶4003 (1st Dist. 1999).

The instant charge was filed in August of 2015, almost three years after Charging Party was terminated from her position of employment with the CTA. As such, any charge related to the Charging Party’s discharge is clearly untimely. Furthermore, the CTA’s decision not to reinstate the Charging Party for the past three years does not constitute a continuing violation.

Charging Party also asserts that the CTA is refusing to arbitrate her discharge grievance. There is simply no evidence to support this aspect of the charge. As noted in Larkins and Amalgamated Transit Unit, Local 241, 31 PERI ¶ 111 (ILRB-LP 2014), the ATU processed the grievances challenging the November 2012 termination and moved the grievances to arbitration. It was only after Charging Party expressed an unwillingness to meet with the ATU attorney prior to the hearing that the ATU postponed the arbitration.² While it is apparent that the ATU postponed the arbitration in the past, Charging Party has presented no evidence that the CTA has

² It should be noted that on August 4, 2015, Charging Party filed another charge against the ATU, in Case No. L-CB-16-001, in which she alleges that the ATU postponed the arbitration scheduled for her November 2012 discharge grievances without cause and has failed to reschedule. This charge is currently under investigation by a Board agent.

ever refused to process Charging Party's November 2012 discharge grievances or that the CTA has refused to allow those grievances to go to arbitration.

III. ORDER

Accordingly, the instant charge is hereby dismissed. The Charging Party may appeal this dismissal to the Board any time within 10 calendar days of service hereof. Such appeal must be in writing, contain the case caption and numbers and must be addressed to the General Counsel of the Illinois Labor Relations Board, 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 at Springfield, Illinois, this 29th day of September, 2015.

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



**Melissa Mlynski
Executive Director**