

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

Sherise Hogan,)	
)	
Charging Party,)	
)	
and)	Case No. L-CA-16-007
)	
Chicago Transit Authority,)	
)	
Respondent.)	

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

On April 15, 2016, Executive Director Melissa Mlynski issued an Order Holding Case In Abeyance (Abeyance Order) pending the final disposition of a contractual grievance concerning Respondent Chicago Transit Authority's termination of Charging Party Sherise Hogan. On August 15, 2015, Sherise Hogan had filed a charge alleging that Respondent engaged in unfair labor practices within the meaning of Section 10(a) of the Illinois Public Labor Relations Act, 5 ILCS 315/10(a) (2014) *as amended*, when it terminated her employment.

Charging Party filed a timely appeal of the Executive Director's Abeyance Order pursuant to Section 1200.135(a) of the Board's Rules and Regulations, 80 Ill. Adm. Code § 1200.135(a). The Respondent did not file a response. After reviewing the record and appeal, we affirm the Executive Director's Abeyance Order 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, Member

/s/ Richard Lewis
Richard Lewis, Member

Decision made at the Local Panel's public meeting in Chicago, Illinois on June 9, 2016, written decision issued in Chicago, Illinois on June 29, 2016.

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

Sherise M. Hogan,)	
)	
Charging Party)	
)	
and)	Case No. L-CA-16-007
)	
Chicago Transit Authority,)	
)	
Respondent)	

ORDER HOLDING CASE IN ABEYANCE

On August 10, 2015, Sherise Hogan (Charging Party) filed a charge with the Local Panel of the Illinois Labor Relations Board (Board) in Case No. L-CA-16-007,¹ alleging that the Chicago Transit Authority (Respondent) engaged in unfair labor practices within the meaning of Section 10(a) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2014), *as amended* (Act). On November 20, 2015, the Charging Party made two amendments to her charge.² After an investigation conducted pursuant to Section 11 of the Act, I determined that this charge should be held in abeyance pending the completion of a contractual grievance.

I. INVESTIGATION

At all times material, Respondent is a public employer within the meaning of Section 3(o) of the Act. At all times material, Charging Party is a public employee within the meaning of Section 3(n) of the Act. Charging Party was employed by the Respondent in the Safety Department and she is included in a bargaining unit (Unit) represented by the Amalgamated Transit Union, Local 241 (Union). The Respondent and the Union are parties to a collective

¹ Charging Party amended the charge two times, both on the day of November 20, 2015.

² Both of the amendments concern the outcome of her unemployment hearing, issues that appear to be beyond the jurisdiction of this Board.

bargaining agreement (CBA) setting out terms and conditions of employment for Unit employees, including the Charging Party. The CBA contains a grievance procedure that culminates in final and binding arbitration.

On or about February 6, 2015, Charging Party was not invited to an office meeting. After the meeting took place, Senior Manager Jessica Rio approached the Charging Party to discuss the fact that Charging Party had not been invited to the meeting. Charging Party did not have an opinion about her lack of an invitation to the meeting and did not want to share her views with Rio. Rio continued to push Charging Party for a response, claiming that she had an attitude. Charging Party and Rio then became involved in a bit of an argument. Charging Party asserts that it was very brief, civil and that she informed Rio she was going to take a short walk to “cool off.”

Upon Charging Party’s return, Cary Hendrix, the General Manager, called a staff meeting concerning the missed meeting incident. At the staff meeting, Charging Party explained what happened and felt that Hendrix and the others began to laugh at her and did not take her seriously. Charging Party told them this was not a comical matter and that she needed to take another walk. Later that day, Charging Party was called to a conference room by Hendrix and Seth Wilson, Director of Human Resources. Once in the conference room, Charging Party received a copy of a “Record of Interview,” which stated she would be contacted to schedule a disciplinary interview the following week that could lead to her discharge.

On or about February 10, 2015, Charging Party had her disciplinary interview concerning her attitude and word usage with Rio on February 6, 2015. On or about February 11, 2015, Respondent terminated Charging Party’s employment and requested that she return her work ID and keys. The Charging Party and/or Union filed a grievance challenging the termination.

Charging Party asserts that the real reason Respondent terminated her employment is to retaliate against the Charging Party for filing workplace complaints and grievances. On or about June 16, 2014, and on or about December 4, 2014, Charging Party met with Dwayne Lane, Chief of Staff, Safety & Security Compliance. She informed Lane, in written form, of policy contradictions, disturbing behavior within her department, issues with training procedures, and overall disrespect and retaliation towards her at the work place dating back to 2010.

In response to Charging Party's unfair labor practice charge, the Respondent has requested that the Board defer the instant matter to the grievance and arbitration procedures as outlined in the CBA between the Respondent and the Union. As of March 23, 2015, the contractual grievance challenging Charging Party's termination is pending at Step 2 of the grievance procedure.

II. DISCUSSION AND ORDER

The Charging Party has presented evidence to show that she has engaged in protected concerted activity by complaining about working conditions to management. At this point, there is insufficient evidence to dismiss an inference that there may be a connection between that activity and the Respondent's decision to discipline her.

Respondent has indicated it is willing to defer this matter to the grievance arbitration process outlined in the CBA. While the Charging Party is proceeding before the Board on her own behalf, the grievance described above will be processed by the Union. As noted, the available evidence indicates that the matter is currently pending under the CBA's grievance procedures. There is no reason to believe that the grievance process itself is not fair or regular, or otherwise incapable of determining whether the Respondent's actions violate the CBA.

The Board has a long-standing policy of holding charges in abeyance under these circumstances.³ Under these circumstances, the Charging Party will have the benefit of the Union's resources during the grievance process. As such, she will have the Union's assistance, albeit from its perspective, in presenting the case. I believe that this benefit will outweigh the cost of the delay involved by holding the instant charge in abeyance.

I am aware that the Respondent may receive notice of the final disposition of the grievance well before the Charging Party. Accordingly, it will be incumbent upon the Respondent to keep the Board advised of the status of the grievance. I believe this is an appropriate *quid pro quo* for not proceeding with this case in two arenas. Should the Charging Party request to reopen the matter at the conclusion of the process, I would then determine whether the final disposition of the grievance is dispositive of the unfair labor practice charge.

Accordingly, IT IS HEREBY ORDERED that this charge be held in abeyance pending the final disposition of the contractual grievance concerning the Charging Party's discipline. IT IS ALSO ORDERED that the Respondent notify the Board and the Charging Party in writing of the final disposition of said grievance within 30 days of the completion of the process. Upon receipt of this notice, the Board will entertain any motions concerning the charge from either party for a period of 15 days. If the Charging Party fails to request that the Board reopen the case within the time specified, this charge will be dismissed. If the Respondent fails to give notice in accordance with this order, the Charging Party may then request to reopen the investigation of this charge, and I will determine whether any issues for hearing remain under the Act.

This order of the Executive Director is an intermediate order that will become final unless either party files an appeal thereto with the Local Panel of the Illinois Labor Relations Board.

³ See. e.g., S-CA-94-23 (James Franzen), E.D. Order December 20, 1993; S-CA-95-3 (Debra Williams), E.D. Order September 21, 1994; S-CA-99-31 (Bryan Havlovic) E.D. Order April 30, 1999; L-CA-12-060 (Keith D. Collins), E.D. Order August 10, 2012.

Appeals must be directed to the General Counsel of the Illinois Labor Relations Board at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103 within ten calendar days of service. The appeal must contain detailed reasons in support thereof, and be served upon all other parties at the same time that it is served upon the Board. A statement asserting that all other parties have been served must accompany an appeal, or it will not be considered by the Board. If no appeals to this order are filed, the order shall stand.

Issued in Springfield, Illinois, this 15th day of April, 2016.

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LOCAL PANEL**



Melissa Mlynski, Executive Director