

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

Kenneth Sawyer,)	
)	
Charging Party,)	
)	
and)	Case No. L-CA-16-044
)	
City of Chicago (Streets & Sanitation))	
)	
Respondent.)	

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

On February 29, 2016, Executive Director Melissa Mlynski dismissed a charge filed by Kenneth Sawyer (Sawyer or Charging Party) on December 14, 2015, which alleged that the City of Chicago (Streets and Sanitation) (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 allegedly disciplined Sawyer based on a supervisor’s false accusations.

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 a 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 May 10, 2016, written decision issued in Chicago, Illinois on May 20, 2016.

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ILLINOIS LABOR RELATIONS BOARD
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Kenneth Sawyer,

Charging Party

and

City of Chicago (Streets & Sanitation),

Respondent

Case No. L-CA-16-044

DISMISSAL

On December 14, 2015, Kenneth Sawyer (Charging Party) filed an unfair labor practice charge with the Local Panel of the Illinois Labor Relations Board (Board), in Case No. L-CA-16-044, alleging that the City of Chicago (Streets & Sanitation) (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 is a public employee within the meaning of Section 3(n) of the Act and is employed by the Respondent in the title of Motor Truck Driver. Charging Party claims that he was falsely accused of using profanity towards a foreman or multiple foremen. A disciplinary hearing took place on or about December 11, 2015, in which Foreman John Hitz accused Charging Party of saying, "Do your damn job." Charging Party disputes this claim. Charging

Party claims that not only was Hitz not present for the hearing, Hitz did not have any witnesses attend the hearing to corroborate his story. Further, Charging Party asserts that Hearing Officer Katrina Scott is biased and issued an unpaid, five day suspension.

By letter dated January 22, 2016, the Board agent assigned to the case advised Charging Party of the elements necessary to establish a 10(a) violation. More specifically, the Board agent requested, *inter alia*, an explanation concerning the allegation that Scott was impartial and was in some way using the suspension as a means to retaliate against Charging Party, or coerce Charging Party, for engaging in protected activity under the Act. The Board agent requested Charging Party provide any and all evidence to support his charge and explanations for the written statements submitted with the charge forms. The Board agent requested that Charging Party submit this information by February 5, 2016. To date, Charging Party has not filed a response.

II. DISCUSSION AND ANALYSIS

Section 1220.40(a)(1) of the Illinois Labor Relations 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." This rule has been interpreted to allow the Executive Director to dismiss a case where a charging party has not complied with a request for evidence in support of a charge, or has not responded to a request for a written withdrawal. 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 case, the Charging Party failed to respond to the Board agent's request for information. As the available evidence is not sufficient to raise an issue for hearing, the Charging Party's failure to respond makes it unnecessary for the Board to process this case further.

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 February, 2016.

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



Melissa Mlynski *she*
Executive Director