STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL

Wayne Harej,	)	
	)	
Charging Party	)	
	)	
and	)	Case No. L-CB-12-033
	)	
Fraternal Order of Police, Lodge 7,	)	
	)	
Respondent	)	

DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD LOCAL PANEL

On April 25, 2012, Executive Director John F. Brosnan issued an order dismissing the unfair labor practice charge filed by Wayne Harej (Charging Party) in the above-captioned case. The Charging Party alleged that the Fraternal Order of Police, Lodge 7 (Respondent) engaged in unfair labor practices within the meaning of Section 10(b) of the Illinois Public Labor Relations Act, 5 ILCS 315/10/10(b) (2010), by precluding him from participating in a stress management class provided jointly by the City of Chicago Police Department (Employer) and Respondent because Charging Party pays fair share fees rather than full union dues. On May 4, 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 §1200.135. The Respondent filed no response.

After reviewing the record and the appeal, we uphold the Executive Director's dismissal. According to the allegations of the charge, Charging Party called Respondent and confirmed that there was space available in an upcoming January 2012 stress

management class that was jointly provided by Respondent and the Employer. The charge further alleged that about 15 minutes later, an agent of Respondent called him and said the classes were a fraternal benefit, not available to those who merely pay fair share fees. Charging Party apparently made no further effort to attend the class—he admitted to a Board agent that he had not applied—and instead, on the day the class was to begin, filed the instant charge.

While in his appeal, Charging Party suggests the process for applying to attend the class flows through Respondent, documentary evidence he submitted with his charge indicates application to attend classes are to be obtained from the Employer and submitted to the Employer. This document was downloaded from the Employer's website on January 1, 2012, over two weeks before January 16, 2012, when the charge was filed and the classes began. Consequently, the statement allegedly made by an agent of Respondent did not prevent Charging Party from attending the class. While the statement, if made, might hae been inaccurate and inappropriate, its effect would have been de minimus. We find no issue of fact or law warranting issuance of a complaint for hearing, and consequently affirm dismissal of the charge.

BY THE LOCAL PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

Robert M. Glerut, Chairman

Charles E. Anderson, Member

Richard Lewis
Board 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.

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	)	
	)	
Fraternal Order of Police, Chicago Lodge 7,	)	
	)	
Respondent	)	

DISMISSAL

On January 16, 2012, Wayne Harej (Charging Party) filed a charge in Case No. L-CB-12-033 with the Local Panel of the Illinois Labor Relations Board (Board) alleging that the Fraternal Order of Police, Chicago Lodge 7 (Respondent) engaged in unfair labor practices within the meaning of Section 10(b) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2010) (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 CHARGING PARTY'S POSITION

The City of Chicago (City) employs the Charging Party as a police officer. As such, he is a member of the bargaining unit of City peace officers represented by the Respondent. There is no dispute that the Charging Party is a fair share fee payor, and has had this status since 2006. The instant charge asserts that the Respondent has discriminated against him because of his status as a fee payor.

Specifically, this case concerns the Respondent's role in allegedly preventing the Charging Party from attending a stress management class offered jointly by the Respondent and the City. According to the Charging Party, these classes are offered from time to time, and any employee that schedules a class during his regular shift is permitted to attend without using leave. Harej indicated that on January 9, 2012, he contacted the Respondent and expressed an interest in attending class scheduled for January 19, 2012. According to Harej, during the initial phone call, he received assurances that there remained openings for the class. Harej indicated that he then provided the 'necessary information' to sign up for the class.

Harej claims that about 15 minutes after the initial call, he received a call from an unnamed representative of the Respondent, advising him that the class was a 'fraternal benefit' and that he was no eligible to attend. By all accounts, Harej took no further action on this issue prior to filing the charge.

The Respondent disputes a number of the Charging Party's factual assertions. It generally agrees that the classes involved are the product of a joint effort by the City and the Union. While it disputes the Charging Party's claim that the classes are a benefit explicitly negotiated in the collective bargaining agreement, it takes no real issue on the point that it may be considered a term or condition of employment for Unit employees.

The Respondent specifically denies that any person advised the Charging Party that he was ineligible to attend the class. The Respondent also disputes that the Charging Party formally applied for the class. Finally, the Respondent asserted that it had no objection or problem with the Charging Party's participation in future classes.

During the course of the investigation, the Board agent assigned to the case contacted the Charging Party to clarify that point, and Harej indicated he had not submitted an application to

the January class. There is no specific evidence showing that the Charging Party forward an application to attend the class.

III. DISCUSSION AND ANALYSIS

The Charging Party claims that the Respondent discriminated against him by 'preventing' him from attending the January 19, 2012 class. As noted above, there is some factual dispute on this point. However, the available evidence suggests that the Charging Party chose not to submit an application to attend the class. As such, there is no evidence that the Respondent would have taken any action to prevent his participation. Further, the Respondent has represented that should the Charging Party elect to submit an application to a future class, it would have no objection to his attendance.

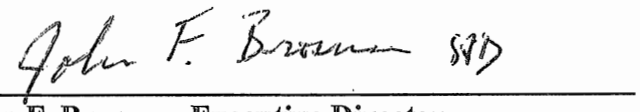
In sum, what is at issue here is whether an agent of the Respondent could have communicated to Harej that he was not eligible to participate in the January class. Given that that time has since passed, the only real option for the parties to this proceeding would be to allow the Charging Party to participate in a future class. The Charging Party is certainly free to raise this issue in a later charge if he encounters any difficulty in this regard. However, it is also possible that the Charging Party will encounter no such difficulty, and will achieve his goal of attending the class. In this circumstance, the harm done to him, i.e., preventing his attendance at an earlier class, assuming that his assertions are factually correct, is at best a *de minimus* issue, not sufficient to warrant a hearing. See, e.g., City of Kankakee (Kankakee Metropolitan Wastewater Utility), 9 PERI ¶2034 (IL SLRB 1992); City of Carbondale, 8 PERI ¶2034 (IL SLRB 1991).

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 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 25th day of April, 2012.

ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL



John F. Brosnan, Executive Director