STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL

Megan Curry,	)	
	)	
Charging Party	)	
	)	
and	)	Case No. L-CB-13-007
	)	
Fraternal Order of Police, Lodge 7,	)	
	)	
Respondent	)	

DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD LOCAL PANEL

On September 10, 2012, the Illinois Labor Relations Board's Executive Director, Melissa Mlynski, dismissed charges filed by Megan Curry in the above-captioned case. Curry had alleged that the Fraternal Order of Police, Lodge 7, had violated Section 10(b) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2010). The Executive Director dismissed the charge on the basis that Curry had failed to respond to a Board agent's request for a position statement.

Curry filed an appeal pursuant to Section 1200.135 of the Board's Rules and Regulations, 80 Ill. Admin. Code, Parts 1200 through 1240. Respondent did not file a response. After reviewing the appeal and the record, we reverse the dismissal and remand for further investigation.

Although not contained in the Board's records, Curry has submitted with her appeal a copy of an e-mail message sent to the Board's agent in which she had, by the deadline established by the Board's agent, submitted a position statement. Moreover, while her original charge appears to have concerned solely matters relating to internal union procedures, subjects

this Board does not address, see 5 ILCS 315/10(b)(1) ("this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein or the determination of fair share payments"), in her response to the Board agent, Curry asked that her charge be amended to include an allegation that she, now a payer of fair share fees rather than full union dues, had requested an accounting of how Respondent had calculated the fair share amount she is being charged. Failure of a union to provide an accounting of fair share fee calculations consistent with the requirements of Chicago Teachers Union v. Hudson, 475 U.S. 292 (1986), may constitute a violation of Section 10(b)(1) of the Act, Combined Counties Police Assoc. (Schlechter), 6 PERI 2019 (IL SLRB 1990). Consequently we find Curry's charges warrant further investigation, and we remand this charge for further investigation.

BY THE LOCAL PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

Robert M. Gierut
Chairman

Charles E. Anderson
Board Member

Richard Lewis
Board Member

Decision made at the Local Panel's public meeting in Chicago, Illinois on November 15, 2012; written decision issued in Chicago, Illinois on December 29, 2012.

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DISMISSAL

On July 31, 2012, Megan Curry (Charging Party) filed a charge in Case No. L-CB-13-007, with the Local Panel of the Illinois Labor Relations Board (Board), in which she alleged that the Fraternal Order of Police, Lodge 7 (Respondent or FOP) engaged in unfair labor practices within the meaning of Section 10(b) 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 is a labor organization representing City of Chicago Police Officers. The Charging Party is employed as a Police Officer for the City of Chicago. As such, she is a member of the bargaining unit represented by the Respondent.

In the charge, Curry alleges that the Respondent violated the Act when it, on July 12, 2012, conducted an internal hearing without her presence and determined that she was no longer a member in good standing. The Charging Party also alleges that the Respondent acted in violation of the Respondent's Constitution and By-laws. The Charging Party further alleges that she was made a fair share member as punishment for internal charges stemming from her attempt

to speak with an attorney representing a former FOP employee who had filed an EEOC complaint.

By letter dated August 13, 2012, the Board agent assigned to this case requested that the Charging Party provide evidence and authority in support of her allegations in the charge, including support for the proposition that the Respondent's conduct involved her 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.[1]

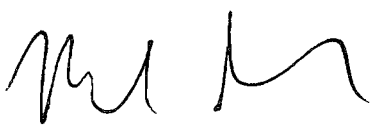
[1] Further, it appears that the Board lacks jurisdiction over the Charging Party's claims. Section 10(b)91) of the Act provides, in relevant part, that it is unlawful for a labor organization 'to restrain or coerce public employees in the exercise of the rights guaranteed in this Act, provided, (i) that this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein or the determination of fair share payments ....' On its face, the charge alleges a

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 10th day of September, 2012.

ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL



Melissa Mlynski, Executive Director

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dispute over the Charging Party's membership status, and accordingly, a matter specifically excluded from consideration under Section 10(b)(1) of the Act.