

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

Deborah Ticey,	)	
	)	
Charging Party	)	
	)	
and	)	Case Nos. L-CB-14-025
	)	
American Federation of State, County,	)	
and Municipal Employees, Council 31,	)	
	)	
Respondent	)	

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

On May 29, 2014, the Illinois Labor Relations Board’s Executive Director, Melissa Mlynski, dismissed the unfair labor practice charge filed by Deborah Ticey (Charging Party) in the above-captioned case. The Charging Party alleged that the American Federation of State, County and Municipal Employees, Council 31 (Respondent) engaged in an unfair labor practice within the meaning of Section 10(b) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2012), by providing her inadequate and irresponsible representation in resolving a class action grievance concerning her vacation day allotment.

The 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. Admin. Code §1200.135(a). Respondent filed no response. After reviewing the record and appeal, we uphold the Executive Director’s Dismissal for the reasons stated in that document.

BY THE LOCAL PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

/s/ Robert M. Gierut  
Robert M. Gierut, Chairman

/s/ Charles E. Anderson  
Charles E. Anderson, Member

/s/ Richard A. Lewis  
Richard A. Lewis, Member

Decision made at the Local Panel's public meeting in Chicago, Illinois on July 8, 2014, written decision issued in Chicago, Illinois on July 21, 2014.

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Deborah Ticey,	)	
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Charging Party	)	
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and	)	Case No. L-CB-14-025
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American Federation of State, County and	)	
Municipal Employees, Council 31,	)	
	)	
Respondent	)	

**DISMISSAL**

On February 28, 2014, Charging Party, Deborah Ticey, filed a charge with the Local Panel of the Illinois Labor Relations Board (Board) in the above captioned case. The charge alleges that Respondent, the American Federation of State, County, and Municipal Employees, Council 31 (AFSCME or Union) engaged in unfair labor practices within the meaning of Section 10(b) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2012) *as amended* (Act). Following an investigation conducted pursuant to Section 11 of the Act, I determine 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 set forth below.

**I. INVESTIGATORY FACTS**

The Respondent is a labor organization within the meaning of Section 3(i) of the Act, and is the exclusive representative of a bargaining unit composed of Respondent's employees including those employees in the job title or classification of Administrative Service Officer I, and working for the City of Chicago in its Fleet Services Management (Unit). The City of Chicago (City) is a public employer within the meaning of Section 3(o) of the Act. At all times

material, Deborah Ticey is a public employee within the meaning of Section 3(n) of the Act employed by Respondent as an Administrative Service Officer I, and is a member of the Unit. There is a collective bargaining agreement (CBA) in effect for the Unit which provides a grievance procedure culminating in arbitration.

Pursuant to a Majority Interest Petition filed on July 25, 2011, by AFSCME in Case No. L-RC-12-003, the Union sought to include a series of non-union job classifications, including Administrative Service Officer I, in the Unit. Charging Party was among the affected employees. The petition was investigated by Administrative Law Judge Anna Hamburg-Gal, and set for hearing on January 18 and 19, 2012, and March 28, 2012. Prior to the hearing dates, the City and the Union settled disputed issues concerning City claims that some employees were confidential. Following settlement, the parties agreed to an appropriate bargaining unit, and on January 24, 2012, the Unit was certified.

In the instant charge, Ticey claims that when her duties were transitioned from non-union to union she lost 5.5 vacation days. She was not alone, several affected employees complained. On December 9, 2013, AFSCME filed a grievance claiming a violation of the CBA. On February 7, 2014, the parties settled the issue. The settlement provided employees in the newly certified titles hired before January 1, 2011, including Ticey, 13 days of paid leave, effective January 1, 2013. Vacation allotment beginning January 1, 2014, would be according to Article VII of the CBA. In this charge, Ticey disputes the settlement agreement and the loss of her vacation days, claiming that at no time did the Union consult her about the settlement. Ticey claims that the Union's representation in this matter has been inadequate and irresponsible.<sup>1</sup>

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<sup>1</sup> On the same date she filed this charge, Charging Party also filed a charge against the City in Case No. L-CB-14-025.

## II. DISCUSSION AND ANALYSIS

Section 10(b)(1) of the Act provides “that a labor organization or its agents shall commit an unfair labor practice . . . in duty of fair representation cases only by intentional misconduct in representing employees under this Act.” Because of the intentional misconduct standard, demonstration of a breach of the duty to provide fair representation, and a violation of Section 10(b)(1), requires a charging party to “prove by a preponderance of the evidence that: (1) the union’s conduct was intentional, invidious and directed at charging party; and (2) the union’s intentional action occurred because of and in retaliation for some past activity by the employee or because of the employee’s status (such as race, gender, or national origin), or animosity between the employee and the union’s representatives (such as that based upon personal conflict or the employee’s dissident union practices).” Metro. Alliance of Police v. Ill. Labor Relations Bd., Local Panel, 345 Ill. App. 3d 579, 588 (1st Dist. 2003).

To prove unlawful discrimination, which is necessary to establish the second element of a Section 10(b)(1) violation, a charging party must demonstrate, by a preponderance of evidence, that: (1) the employee has engaged in activities tending to engender the animosity of union agents or that the employee’s mere status, such as race, gender, religion or national origin, may have caused animosity; (2) the union was aware of the employee’s activities and/or status; (3) there was an adverse representation action taken by the union; and (4) the union took an adverse action against the employee for discriminatory reasons, i.e. because of animus towards the employee’s activities or status. Id. at 588-89.

In this case, Ticey has not provided any evidence that AFSCME intentionally took any action either designed to retaliate against her because of her status or her past activity. To the contrary, it appears that Charging Party was treated the same as the other similarly situated

employees recently added to the Unit. The Union pursued a grievance, on behalf of these employees, when a dispute arose over how to calculate their vacation time. The Union and the City then negotiated a settlement agreement to resolve the grievance. Charging Party is clearly unhappy with the settlement agreement and asserts that it results in her losing vacation time, but this is insufficient to warrant hearing. Under Section 6(d) of the Act, the exclusive representative has a wide range of discretion in grievance handling, and as the Board has previously held, a union's failure to take all the steps it might have taken to achieve the results desired by a particular employee does not violate Section 10(b)(1), unless as noted above, the union's conduct appears to have been motivated by vindictiveness, discrimination, or enmity. Outerbridge and Chicago Fire Fighters Union, Local 2, 4 PERI ¶3024 (IL LLRB 1988); Parmer and Service Employees International Union, Local 1, 3 PERI ¶3008 (IL LLRB 1987). As there is no evidence indicating that the Union was so motivated, Charging Party has failed to present grounds upon which to issue a complaint for hearing.

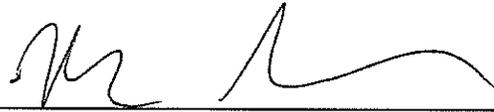
### **III. ORDER**

Accordingly, the instant charge is hereby dismissed. Charging Party may appeal this dismissal to the Board at any time within 10 calendar days of service hereof. Any such appeal must be in writing, contain the case caption and number, and be addressed to the Board's General Counsel, 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103. Appeals will not be accepted in the Board's Springfield office. In addition, any such appeal must contain detailed reasons in support thereof, and the party filing the appeal must provide a copy of its appeal to all other persons or organizations involved in this case at the same time the appeal 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 a copy of the appeal has been provided to each of them. An appeal filed

without such a statement and verification will not be considered. If no appeal is received within the time specified herein, this dismissal will become final.

**Issued in Springfield, Illinois, this 29<sup>th</sup> day of May, 2014.**

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A handwritten signature in black ink, appearing to read 'M Mlynski', written over a horizontal line.

**Melissa Mlynski  
Executive Director**