

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

Sonia Clincy,	)	
	)	
Charging Party	)	
	)	
and	)	Case No. L-CB-14-026
	)	
Laborers International Union of North America	)	
Local 1001,	)	
	)	
Respondent	)	

**ORDER**

On January 14, 2015, Administrative Law Judge Martin Kehoe, on behalf of the Illinois Labor Relations Board, issued a Recommended Decision and Order in the above-captioned matter. No party filed exceptions to the Administrative Law Judge's Recommendation during the time allotted, and at its April 16, 2015 public meeting, the Board, having reviewed the matter, declined to take it up on its own motion.

**THEREFORE**, pursuant to Section 1200.135(b)(5) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1200.135(b)(5), the parties have waived their exceptions to the Administrative Law Judge's Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.

**Issued in Chicago, Illinois, this 16th day of April, 2015.**

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

  
\_\_\_\_\_  
**Jerald S. Post**  
**General Counsel**

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

Sonia Clincy,	)	
	)	
Charging Party	)	
	)	
and	)	Case No. L-CB-14-026
	)	
Laborers International Union of North	)	
America, Local 1001,	)	
	)	
Respondent	)	

**ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION AND ORDER**

On March 3, 2014, Sonia Clincy filed a charge in Case No. L-CB-14-026 with the Local Panel of the Illinois Labor Relations Board (Board) alleging that the Laborers International Union of North America, Local 1001 (Union) engaged in an unfair labor practice within the meaning of Section 10(b) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2012) as amended (Act). Subsequently, the charge was investigated in accordance with Section 11 of the Act and the Rules and Regulations of the Board, 80 Ill. Admin. Code, Parts 1200 through 1240 (Rules). The Board’s Executive Director issued a Complaint for Hearing on August 24, 2011.

The case was heard on November 5, 2014 by the undersigned. Both parties appeared at the hearing and were given a full opportunity to participate, adduce relevant evidence, examine witnesses, and argue orally. Later, written briefs were timely filed on behalf of both parties. After full consideration of the parties’ stipulations, evidence, arguments, and briefs, and upon the entire record of the case, I recommend the following.

## **I. PRELIMINARY FINDINGS**<sup>1</sup>

1. At all times material, the Union has been a labor organization within the meaning of Section 3(i) of the Act.
2. At all times material, the Union has been the exclusive representative of a bargaining unit comprised of certain employees employed by the City of Chicago, including employees in the title of Laborer in the Department of Streets and Sanitation.
3. The City of Chicago is a public employer within the meaning of Section 3(o) of the Act subject to the jurisdiction of the Board's Local Panel pursuant to Section 5 of the Act.
4. At all times material, Clincy has been a public employee within the meaning of Section 3(n) of the Act.
5. At all times material, Frank Earullo was a business agent for the Union and authorized to act on its behalf.

## **II. ISSUES AND CONTENTIONS**

The Complaint for Hearing alleges that Earullo threatened reprisal within the meaning of Section 10(c) of the Act and thereby violated Section 10(b)(1) of the Act. The Union disputes that allegation and asks the Board to dismiss the Complaint for Hearing.

## **III. FINDINGS OF FACT**

The Union's collective bargaining agreement with the City of Chicago requires the Union's members to pay dues "as a condition of employment." The Union is responsible for informing its members when they are delinquent. The Union's business agents are responsible

---

<sup>1</sup> These preliminary findings emanate from the Union's Answer to the Complaint for Hearing.

for making sure members pay their dues. Members are regularly contacted about delinquencies by telephone, by mail, or in person at a member's jobsite.

Members must maintain their dues during a leave of absence. When a member returns to work after taking such a leave the member is asked to pay dues for the period he or she was absent. Clincy, a sanitation laborer for the City of Chicago and Union member, went on a leave of absence for a period of time in 2012. Clincy did not pay her dues during that period and thus owed the Union \$135.

On February 6 and 11, 2013, the Union mailed Clincy letters informing Clincy of her delinquency. The letters also warned Clincy that a failure to pay the \$135 owed would result in her Union membership being suspended. It is unclear whether Clincy received the letters.

Earullo became a business agent for the Union on June 16, 2013 and was assigned a number of jobsites, one of which was Clincy's jobsite at 39th and Iron (or "Grid Six"). In the second week of September 2013, Earullo was given a list of members at his jobsites who had not paid all of their dues. Clincy was one of several members on the list.

Earullo went to the 39th and Iron jobsite on September 16, 2013, as at least six or seven members affiliated with that location were delinquent. Earullo arrived at around 2 p.m. in order to reach members as they clocked out at the end of the workday. Purportedly, that approach was easier than trying to locate the delinquent members in the field.

Upon arrival, Earullo spoke with a number of members about their dues. He later approached Malachi Dean, the jobsite's Union steward, and asked Dean to help him find Clincy and another delinquent member on the list. Earullo told Dean that the two owed dues and that Earullo still needed to talk with them.

Shortly after his exchange with Earullo, Dean approached Clincy and told her that, according to Earullo, she needed to pay the Union delinquent dues. Dean also informed Clincy that if she did not pay her dues her Union membership could be suspended. Around that time, Earullo publicly warned nearby members that if they did not pay their dues they could be ineligible for transfers and promotions and be subject to an \$800 reinstatement/initiation fee.

Two minutes after Clincy's conversation with Dean, Earullo informed Clincy that if she did not pay her dues her Union membership could be suspended. In response, Clincy said, "That's not true," and told Earullo that she preferred that Earullo brought her "financial business" to her and not to Dean because Dean was "just a union steward."

Clincy next asked Earullo how she could resolve her situation. At that point, Earullo handed Clincy a dues deduction form and informed her that she owed the Union \$135. Clincy immediately signed the form and returned it to Earullo. Earullo then walked away and never spoke to Clincy again, but did return to the same jobsite later that month.

Clincy felt disrespected and "somewhat" intimidated by how Earullo handled her delinquency, and accordingly filed complaints and charges with the Union about Earullo on September 18, 2013 and December 2, 2013. The Union later conducted a trial and heard her charges on January 7, 2014. On January 16, 2014, the Union determined that Earullo would not be disciplined. That determination was approved by the Union's general membership on January 19, 2014. On March 3, 2014, Clincy filed the instant unfair labor practice charge with the Board.

The \$135 Clincy owed was eventually taken out of Clincy's paychecks in accordance with the signed dues deduction form. The Union has taken no action against Clincy because of the exchanges of September 16, 2013 or because of her late dues, and her Union membership was not affected. Moreover, the record indicates that she has not been fired, suspended, or

denied a promotion. However, Clincy testified that she “put in” for several (unspecified) transfers and was granted none of them. Earullo voluntarily ceased being a business agent on December 31, 2013. He has been the Union’s vice president since June 1, 2013.

#### IV. DISCUSSION AND ANALYSIS

The Complaint for Hearing alleges that Union agent Earullo threatened reprisal within the meaning of Section 10(c) of the Act and thereby violated Section 10(b)(1) of the Act when he spoke with Clincy on September 16, 2013. Section 10(c) provides in relevant part that the expression of any views, argument, or opinion or the dissemination thereof shall not constitute or be evidence of an unfair labor practice under any of the provisions of the Act if such expression contains no threat of reprisal. Section 10(b)(1) states in relevant part that it shall be an unfair labor practice for a labor organization or its agents to restrain or coerce public employees in the exercise of the rights guaranteed in the Act. A statement constitutes a threat of reprisal violative of Section 10(b)(1) if, under an objective standard, it restrains or coerces public employees in the exercise of those rights. Village of Maywood (Police Department), 29 PERI ¶127 (IL LRB-SP 2012); Metropolitan Alliance of Police, 18 PERI ¶3013 (IL LRB-LP 2002); Palos Heights Professional Firefighters, IAFF, Local 4254, 21 PERI ¶85 (IL LRB-SP G.C. 2005); City of Burbank, 15 PERI ¶2042 (IL SLRB G.C. 1999).

When determining whether there was an unlawful threat, it is important to consider the statements at issue in the context in which they were presented. City of Pekin, 9 PERI ¶2037 (IL SLRB 1993); Alcoa Construction Systems, Inc., 212 NLRB 452, 458 (1974). Significantly, there is no notable evidence of disparate treatment in this instance. In fact, the record generally indicates that the Union has treated its members equally. See Chicago Joint Board, RWDSU,

Local 200, 17 PERI ¶3015 (IL LRB-LP 2001); City of Burbank, 15 PERI ¶2042. It also appears that most if not all of the information Earullo presented to Clincy on September 16, 2013 had already been shared with her via the collective bargaining agreement and possibly letters from the Union. See Village of Bensenville, 19 PERI ¶119 (IL LRB-SP 2003). Additionally, Earullo's actions and statements were neither violent nor oppressive and were reasonably related to legitimate Union objectives. See Palos Heights Professional Firefighters, IAFF, Local 4254, 21 PERI ¶85; International Brotherhood of Electrical Workers, Local 134, 10 PERI ¶3028 (IL LLRB G.C. 1994); Vaughn v. Air Line Pilots Association, International, 604 F.3d 703, 709 (2nd Cir. 2010). Those factors suggest that Earullo's statements were neither arbitrary, discriminatory, nor uttered in bad faith, and weigh against finding a violation.

In short, I cannot conclude that Earullo's statements rise to the level of restraint or coercion that is violative of Section 10(b)(1) of the Act. Indeed, I posit that a labor organization has a fiduciary duty to similarly apprise its members of their obligations and the consequences arising out of arrearages and afford them an adequate opportunity to make payments. Clincy is largely upset because a steward was informed of her delinquency and that colleagues heard Union agents speak about it, but notably the Union could have chosen an even less private approach and publicly posted her delinquency at the jobsite. See National Labor Relations Board v. Hotel, Motel and Club Employees Union, Local 568, 320 F.2d 254, 257 (3rd Cir. 1963); International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers & Helpers, Local Lodge No. 732, 239 NLRB 504, 511 (1978); Alcoa Construction Systems, Inc., 212 NLRB at 458.

Separately, Clincy contends that Earullo and/or the Union somehow influenced how the City of Chicago handled some of her transfer requests. However, that contention reaches beyond

the allegations specifically provided by the Complaint for Hearing and therefore need not be considered by the Board. The same conclusion must also be reached regarding Clincy's extraneous "harassment," "intimidation," and "stalking" claims and the alleged violation of the Union's constitution. See Chicago Transit Authority, 16 PERI ¶3021 (IL LLRB 2000); East St. Louis Housing Authority, 29 PERI ¶154 (IL LRB-SP G.C. 2013). In addition, no evidence suggests that Earullo or any other Union agent urged the City of Chicago to take any action whatsoever regarding Clincy. See City of Chicago, 3 PERI ¶3002 (IL LLRB 1986); Palos Heights Professional Firefighters, IAFF, Local 4254, 21 PERI ¶85; McHenry Community High School District No. 156, 1 PERI ¶1005 (IL ELRB ALJ 1984) (Self-serving testimony not supported by independent evidence which tends to substantiate it is of little probative value.). Moreover, the overall record indicates that the Union cannot simply dictate how its members' transfer requests are handled.

#### V. CONCLUSION OF LAW

I find that Clincy failed to prove by a preponderance of the evidence that the Union violated Section 10(b)(1) of the Act.

#### VI. RECOMMENDED ORDER

IT IS HEREBY ORDERED that the Complaint for Hearing be dismissed in its entirety.

#### VII. EXCEPTIONS

Pursuant to Section 1200.135 of the Board's Rules, parties may file exceptions to the Administrative Law Judge's Recommended Decision and Order and briefs in support of those

exceptions no later than 30 days after service of this Recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 15 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's Recommendation. Within 7 days from the filing of cross-exceptions, parties may file cross-responses to the cross-exceptions. Exceptions, responses, cross-exceptions, and cross-responses must be filed with the General Counsel of the Illinois Labor Relations Board at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103 and served on all other parties. Exceptions, responses, cross-exceptions, and cross-responses will not be accepted at the Board's Springfield office. The exceptions and/or cross-exceptions sent to the Board must contain a statement listing the other parties to the case and verifying that the exceptions and/or cross-exceptions have been provided to them. The exceptions and/or cross-exceptions will not be considered without this statement. If no exceptions have been filed within the 30-day period, the parties will be deemed to have waived their exceptions.

**Issued in Chicago, Illinois on January 14, 2015.**

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



---

**Martin Kehoe  
Administrative Law Judge**