

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

Ronald Stubbs,	)	
	)	
Charging Party	)	
	)	
and	)	Case No. L-CB-15-016
	)	
Amalgamated Transit Union, Local 241,	)	
	)	
Respondent	)	

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

On December 11, 2014, Executive Director Melissa Mlynski dismissed an unfair labor practice charge filed by Charging Party Ronald Stubbs in the above-captioned case. The Charging Party alleged that Respondent Amalgamated Transit Union, Local 241 violated Section 10(b) of the Illinois Public Labor Relations Act, 5 ILCS 315/10(b) (2012), by failing to pursue his grievance to arbitration.

The Executive Director dismissed the charge finding that the Charging Party failed to present evidence or otherwise assert that the Respondent's conduct was motivated by animus or another discriminatory reason. 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. Adm. Code § 1200.135(a). The Respondent filed no 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 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 held in Chicago, Illinois on February 10, 2015; written decision issued in Chicago, Illinois on February 23, 2015.

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

Ronald Stubbs,

Charging Party

and

Amalgamated Transit Union, Local 241,

Respondent

Case No. L-CB-15-016

**DISMISSAL**

On November 7, 2014, Charging Party, Ronald Stubbs, filed a charge with the Local Panel of the Illinois Labor Relations Board (Board) in the above-captioned case, alleging that Respondent, Amalgamated Transit Union, Local 241 (ATU or Union) violated Section 10(b) of the Illinois Public Labor Relations Act (Act), 5 ILCS 315 (2012), *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 issue this dismissal for the reasons set forth below.

**I. INVESTIGATORY FACTS AND POSITION OF CHARGING PARTY**

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 (Unit) of Chicago Transit Authority (CTA) employees, including those in the title of Bus Operator. At all times material, the Charging Party was a public employee within the meaning of Section 3(n) of the Act employed by the CTA as a Bus Operator. The CTA and Union are parties to a collective bargaining agreement (CBA) which provides for a grievance procedure culminating in arbitration for the Unit.

On May 12, 2011, Charging Party filed grievance #11-0512 with the Union. In the grievance, the Charging Party alleges the CTA unjustly terminated his employment on May 4, 2011, for safety violations. The last violation was an accident involving a bus and an individual, which Charging Party claims was caused by weather conditions. By letter dated August 29, 2011, the Union informed the Charging Party that the Grievance Committee of the Executive Board voted to arbitrate the grievance, adding that arbitration was still contingent upon the Union attorney's recommendation to determine whether the grievance was arbitrable. Since that time, Charging Party alleges he repeatedly contacted the Union's local office and, at some point, an official told him that the local voted not to advance the grievance to arbitration. In his unfair labor practice charge, Charging Party asserts that he never received official notification from the Union regarding the status of his grievance.

By letter dated November 17, 2014, the Board agent assigned to the case advised Charging Party of the elements necessary to establish a 10(b) violation. The Board agent advised the Charging Party that in order for the Union to have violated the Act, there must be evidence of intentional misconduct. The Board agent requested Charging Party provide any and all evidence to support his charge by December 1, 2014.

In response to the Board agent's request, Charging Party provided a letter he received from the Union, dated November 25, 2014. In this letter, the Union informed the Charging Party his grievance would not likely prevail on the merits, and that accordingly the grievance had been withdrawn.

## **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 the instant charge, Charging Party’s allegations and evidence do not raise a question of intentional misconduct on the part of the Respondent. Under Section 6(d) of the Act, a labor organization has a wide range of discretion in contract interpretation and 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 the Act, 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). There is insufficient evidence that the Union was so motivated in this case. In fact, the evidence submitted by the Charging Party indicates that the Union withdrew the grievance after making a determination that it was unlikely to prevail on the merits of the grievance.

### **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 Illinois Labor Relations 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 11<sup>th</sup> day of December, 2014.**

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



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**Melissa Mlynski  
Executive Director**