

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

Amalgamated Transit Union,)	
Local 1028,)	
)	
Charging Party)	
)	
and)	Case No. S-CA-13-193
)	
Pace Suburban Bus,)	
)	
Respondent)	

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

On July 25, 2013, Executive Director Melissa Mlynski dismissed the unfair labor practice charge filed by the Amalgamated Transit Union, Local 1028, (Charging Party) in the above-referenced case. The Charging Party alleged that Pace Suburban Bus (Respondent) engaged in an unfair labor practice within the meaning of Section 10(a) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2012), when it required its supervisors to advise employees that they could no longer use leave granted under the Family and Medical Leave Act provision in the parties' collective bargaining agreement as an excusable absence.

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). The Respondent filed no response. After reviewing the dismissal, record and appeal, we uphold the Executive Director's dismissal.

BY THE STATE PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

/s/ John J. Hartnett
John J. Hartnett, Chairman

/s/ Paul S. Besson
Paul S. Besson, Member

/s/ James Q. Brennwald
James Q. Brennwald, Member

/s/ Michael G. Coli
Michael G. Coli, Member

/s/ Albert Washington
Albert Washington, Member

Decision made at the State Panel's public meeting in Chicago, Illinois, on September 10, 2013;
written decision issued at Chicago, Illinois, October 23, 2013.

employees that they can no longer use the Family and Medical Leave Act (FMLA) provision in the parties' CBA as an excusable absence. The Charging Party claims that the CBA identifies FMLA time as an acceptable absence.

By letter dated June 13, 2013, the Board agent assigned to this case advised the Charging Party that this case appeared to be an allegation of noncompliance with the CBA between the Union and Employer; a matter that is subject to the parties' contractual grievance procedure and not the Illinois Labor Relations Board. The Charging Party was asked to provide information in support of the charge disputing this assessment, including evidence or argument to show that Respondent's conduct was connected in some way to the Charging Party's exercise of rights under the Act. The Board agent advised the Charging Party that absent some evidence of interference with its rights under the Act or retaliation for some activity protected by the Act, the Board would lack jurisdiction over this issue.

In response, the Charging Party submitted a copy of the "Absenteeism Policy" from the parties' CBA. Although the policy outlined the use of FMLA as an appropriate excuse for absenteeism, the evidence did not suggest that the Employer was involved in anything other than noncompliance with the contract. By letter dated June 25, 2013, the Union was asked to submit specific evidence illustrating how the Employer's conduct violated the Act. The Union was given a July 10, 2013 extension to respond. To date, the Charging Party has not filed materials responsive to this second request for information.

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." This rule has been interpreted to

allow the Executive Director to dismiss a case where a charging party has not complied with a request for evidence in support of a charge, or has not responded to a request for a written withdrawal. 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 case, the Charging Party has failed to provide specific evidence relative to the Board agent's request for evidence to show how the conduct referenced in the charge involved the Union's rights under the Act. As there is nothing in the available evidence relevant to that point, the charge is not sufficient to raise an issue for hearing.

Charging Party is essentially asking the Board to enforce a specific provision in the CBA, but the Board has long held that it does not police collective bargaining agreements "to obtain specific enforcement of contract terms." Village of Creve Couer, 3 PERI ¶2063 (IL SLRB 1987), supplemental decision at 4 PERI ¶2002 (IL SLRB 1987).

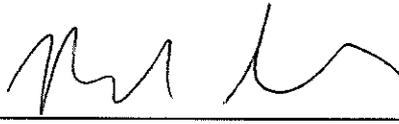
III. ORDER

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 numbers and must be addressed to the General Counsel of the Illinois Labor Relations Board, 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 Springfield, Illinois, this 25th day of July, 2013.

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STATE PANEL**

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

Melissa Mlynski, Executive Director