

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

Byron Fire Protection District,)	
)	
Respondent)	
)	
and)	Case No. S-CA-14-251
)	
Byron Firefighters International)	
Association of Firefighters, Local 4775,)	
)	
Charging Party)	

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

On November 13, 2014, Executive Director Melissa Mlynski dismissed a charge filed by the Byron Firefighters International Association of Firefighters, Local 4775 (Union or Charging Party) on June 26, 2014, which alleged that the Byron Fire Protection District (Respondent) engaged in unfair labor practices within the meaning of Sections 10(a)(4) and (1) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2012) (Act), when it unilaterally changed benefits bargained for by the Union and thereby repudiated the parties' collective bargaining agreement.

The charge stems from the Respondent's denial of a retiree's request for contribution to health insurance premiums. Under the parties' collective bargaining agreement, retirees are entitled to receive contribution towards their health insurance premiums if they meet a specified length-of-service requirement. The contract contains no other express precondition to retirees' receipt of contributions. However, it provides that "retired employees electing continued coverage in the District's health insurance plan must pay their share of the premiums" by a certain date. In April 2014, the Respondent denied a retiree's request for contribution to his

health care premium payment on the basis that he was not enrolled in the Respondent's health insurance plan. This was the first time a retiree who was not enrolled in the Respondent's health plan had requested contribution to his premium payments. The Union filed a grievance over the denial, but failed to file a timely request for arbitration. The Union then filed the instant charge.

The Executive Director dismissed the charge on the grounds that the Union described a mere breach of the contract by the Respondent, which the Board was not authorized to remedy.

The Union 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).¹ The Union argues that the Board has jurisdiction to remedy alleged unilateral changes to bargained-for benefits and that the change in this case was so significant that it constituted a repudiation of the collective bargaining process. In the alternative, the Union asks the Board to defer the matter to arbitration under Collyer. Collyer Insulated Wire, 192 NLRB 837 (1971). The Respondent filed a response. After reviewing the record and appeal, we uphold the Executive Director's Dismissal for the reasons stated in that document, elaborating below to address points made in the exceptions.

We find that the Executive Director correctly observed that the Union pled no more than a breach of contract and failed to raise issues of fact or law for hearing on an alleged repudiation. To find that a respondent repudiated a collective bargaining agreement, the Board must determine that there was (1) a substantial breach by the respondent (2) made without rational justification or reasonable interpretation such that it demonstrates bad faith. City of Loves Park v. Ill. Labor Rel. Bd. State Panel, 343 Ill. App. 3d 389, 395 (2nd Dist. 2003); City of Chicago, 30

¹ The Charging Party also made a request for oral argument. We deny that request because the issues presented by this case are not so novel or difficult as to make oral argument advisable. Wholesale and Dep't Store Union (Otis), 26 PERI ¶ 45 (IL LRB-LP 2010)(denying oral argument on identical grounds).

PERI ¶ 194 (IL LRB-LP 2014) (setting forth two-step repudiation analysis); City of Elgin, 30 PERI ¶ 8 (IL LRB-SP 2013); City of Kewanee, 23 PERI ¶110 (IL SLRB 2007). Thus, to raise issues of fact or law for hearing on a repudiation claim, the Union must make some minimal showing relevant to both prongs of this analysis. The Union has not done so here.

Markedly absent from the Union's submissions is any evidence that the Respondent's interpretation of the contract was made in bad faith. The Union acknowledges as much by offering arguments based in contract interpretation to support its own reading of the agreement. Indeed, the Union's comparison of the language in its current contract with language in its prior one underscores the ambiguity of the health care clause at issue. We note that the clause is ambiguous even when read in isolation. Its reference to retirees "electing continued coverage" in the Respondent's plan raises questions as to whether the parties intended Respondent's premium contributions to be contingent on retirees' participation in that plan. The Union's unorthodox motion to defer its own charge to arbitration lends weight to the conclusion that the parties have a bona fide dispute over the meaning of their agreement that falls outside the Board's jurisdiction.² Finally, we need not address the magnitude of the alleged breach in the absence of any evidence that the Respondent acted in bad faith. City of Kewanee, 23 PERI ¶ 110 (there can be no repudiation where the contract's language is open to more than one reasonable interpretation); Vill. of Creve Coeur, 3 PERI ¶ 2063 (IL SLRB 1987).

² Setting aside the unusual procedural posture of the motion, we deny the motion for deferral as untimely because it was not filed during investigation of the charge. 80 Ill. Admin. Code 1220.65(b) (parties may move for deferral prior to the issuance of the complaint or within 25 days after its issuance). Further, we find no grounds to defer on our own motion where the Respondent has expressly refused to waive its procedural defenses to the grievance. City of Elgin, 30 PERI ¶ 202 (Collyer standard for deferral is satisfied where an employer credibly asserts its willingness to arbitrate the dispute and waives all procedural barriers to the filing of a grievance); see also City of East Moline, 24 PERI ¶ 34 (IL LRB-SP 2008); Collyer Insulated Wire, 192 NLRB 837 (1971).

For these reasons, we affirm the Executive Director's dismissal and deny the Union's motion to defer the matter to arbitration.

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 held by video conference in Chicago, Illinois and Springfield, Illinois, on January 13, 2015; written decision issued in Chicago, Illinois on January 27, 2015.

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

Byron Firefighters, Local 4775,

Charging Party

and

Byron Fire Protection District,

Respondent

Case No. S-CA-14-251

DISMISSAL

On June 26, 2014, Byron Fire Fighters, Local 4775 (Charging Party) filed an unfair labor practice charge with the State Panel of the Illinois Labor Relations Board (Board), in Case No. S-CA-14-251, alleging that the Byron Fire Protection District (District or Respondent) violated Section 10(a) 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 hereby issue this dismissal for the reasons stated below.

I. INVESTIGATORY FACTS

The Respondent is a public employer within the meaning of Section 3(o) of the Act. The Charging Party is a labor organization within the meaning of Section 3(i) of the Act. Charging Party is the exclusive representative of a bargaining unit comprised of Firefighters and Lieutenants employed by the Respondent. The Charging Party and Respondent are parties to a collective bargaining agreement (CBA) with a term of November 1, 2009 through October 31, 2014. The collective bargaining agreement contains a grievance procedure culminating in final

and binding arbitration. Charging Party alleges that the Respondent violated Section 10(a)(4) of the Act when it unilaterally modified the retiree health insurance plan and did not bargain over a mandatory subject of bargaining.

Article XII, Section 12.2 of the CBA provides that the District will contribute to the monthly health insurance premiums of retirees as follows:

All full-time sworn or civilian employees hired on or before November 1, 2006, and who retire on or before October 31, 2012 with a combined total of age plus length of full-time service with the District equaling a minimum of 80 will be eligible to receive a District contribution toward their monthly health insurance premium of 50% of the current single premium rate effect or \$350.00, whichever is less, until reaching the age of 65. Sworn employees must be at least age 50 at retirement and civilian employees must be at least age 55 at retirement to be eligible. Retired employees electing continued coverage in the District's health insurance plan, must pay their share of the premiums to the District by the 1st of the month. Retirees electing to continue the coverage for dependents must pay the entire cost for the coverage to the District by the 1st of each month. Failure to timely remit payment will cause the insurance to cease and it will not be able to be reinstated, except for any grace period as may be mandated by law.

Charging Party asserts that the District is refusing to pay the insurance contribution to retirees that elect to join an insurance plan other than the District's. On or about April 28, 2014, the Union was notified that the Respondent intended to deny a retiree the \$350 benefit described in the contract language above. The retiree inquired if he could have his retiree insurance stipend applied to insurance not provided by the District. He wanted to switch insurance, but keep the stipend. The Respondent denied the retiree's request, apparently taking the position that the CBA did not provide for payment of the stipend under such circumstances.

Charging Party asserts that by the actions described above, the Respondent unilaterally altered the retirement benefits of current Unit members. Charging Party filed a grievance concerning this matter on May 4, 2014. On or about June 30, 2014, Charging Party submitted a request for arbitration.

II. DISCUSSION AND ANALYSIS

While Charging Party asserts that the Respondent bargained in bad faith when it unilaterally modified the retiree health insurance plan, this is essentially a contractual dispute over how to interpret and apply Article XII, Section 12.2 of the parties' CBA. The Board has long held that it is not in the Board's functions "to remedy alleged contractual breaches or to obtain specific enforcement of contract terms." Village of Creve Coeur, 3 PERI ¶ 2063 (ISLRB 1987). Furthermore, Respondent's actions are not a repudiation or renunciation of the parties' CBA that would warrant a hearing in front of the Board.

III. ORDER

Accordingly, the instant charge is dismissed in its entirety. 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, at 160 North LaSalle Street, Suite S-400, Chicago, Illinois, 60601-3103. The appeals must contain detailed reasons in support thereof, and the Charging Party must provide to all other persons or organizations involved in this case at the same time it is served on the Board. The appeals 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, the Dismissal will be final.

Issued at Springfield, Illinois, this 13th day of November, 2014.

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



**Melissa Mlynski
Executive Director**