

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

Policemen's Benevolent and Protective Association,)	
)	
Charging Party)	
)	
and)	
)	Case No. S-CA-15-049
City of Chicago Heights,)	
)	
Respondent)	

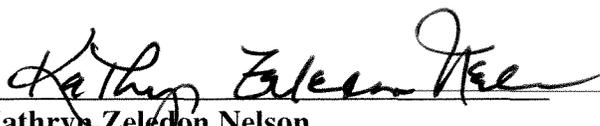
ORDER

On April 13, 2015 Administrative Law Judge Deena Sanceda, 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 July 7, 2015 public meeting, the Board, having reviewed the matter, and 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the parties have waived their exceptions to the Administrative Law Judge's Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.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 7th day of July 2015.

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



Kathryn Zeledon Nelson
General Counsel

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
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Policemen's Benevolent and Protective Association,)	
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and)	Case No. S-CA-15-049
)	
City of Chicago Heights,)	
)	
Respondents)	

ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER

On October 21, 2014, Policemen's Benevolent and Protective Assoc. (Charging Party), filed an unfair labor practice charge with the State Panel of the Illinois Labor Relations Board, (Board), in the above-captioned case, alleging that the City of Chicago Heights (Respondent) violated Section 10(a) of the Illinois Public Labor Relations Act (Act) 5 ILCS 315 (2012). The charges were investigated in accordance with Section 11 of the Act, and on February 19, 2015, the Board's Executive Director issued a Complaint for Hearing. The Complaint for Hearing alleged that Respondent violated Sections 10(a)(7) and (1) of the Act when it failed and refused to sign a tentative agreement for a successor collective bargaining agreement between the parties, and violated Sections 10(a)(4) and (1) of the Act when it failed to provide the Charging Party with payroll records of past insurance deductions. For the reasons identified below, I recommend the following:

I. BACKGROUND

According to the affidavit of service attached to the complaint for hearing, the Board mailed a copy of the complaint to Respondent's attorney by U.S. mail on Thursday, February 19, 2015. The complaint contained the following statement:

RESPONDENT IS HEREBY NOTIFIED that pursuant to Section 1220.40(b) of the Board's Rules and Regulations, 80 Ill. Admin. Code §§1200-1240, it must file an answer to this complaint with Deena Sanceda, 160 N. LaSalle St., Ste. S-400, Chicago, Illinois 60601, and serve a copy thereof upon Charging Party within 15 days after service of the complaint upon it. Said answer shall include an express admission, denial, or explanation of each and every allegation of this

complaint. **Failure to specifically respond to an allegation shall be deemed an affirmative admission of the facts or conclusions alleged in the allegation. Failure to timely file an answer shall be deemed to be an admission of all material facts or legal conclusions alleged and a waiver of hearing. The filing of any motion or other pleading will not stay the time for filing an answer.**

On March 23, 2015, the undersigned issued an Order to Show Cause informing the Respondent that because the Board had not yet received its answer to the Complaint the Respondent was ordered to show cause no later than March 30, 2015, why a default judgment consistent with Section 1220.40(b) of the Rules should not issue. To date, Respondent has filed neither an answer to the Complaint nor a response to the Order to Show Cause.

II. DISCUSSION AND ANALYSIS

The sole issue presented in this case is whether the Respondent's failure to file a timely answer to the Complaint constitutes an admission of the material facts and legal allegations contained in the Complaint such that it has waived its right to an oral hearing pursuant to Section 1220.40(b) of the Board's Rules. Section 1220.40(b) of the Board's Rules provides that:

Whenever the Executive Director issues a complaint for hearing, the respondent shall file an answer within 15 days after service of the complaint and deliver a copy to the charging party by ordinary mail to the address set forth in the complaint. Answers shall be filed with the Board with attention to the designated Administrative Law Judge.

- 1) The answer shall include a specific admission, denial or explanation of each allegation or issue of the complaint or, if the respondent is without knowledge thereof, it shall so state and such statement shall operate as a denial. Admissions or denials may be made to all or part of an allegation but shall fairly meet the circumstances of the allegation.
- 2) The answer shall also include a specific, detailed statement of any affirmative defenses.
- 3) Parties who fail to file timely answers shall be deemed to have admitted the material facts and legal conclusions alleged in the complaint. The failure to answer any allegation shall be deemed an admission of that allegation. Failure to file an answer shall be cause for the termination of the proceeding and the entry of an order of default. Filing of a motion will not stay the time for filing an answer.

Section 1200.30(c) of the Rules provides that a document is presumed served on a party three days after it is mailed. Sections 1200.30(a) provides that "[i]n computing any period of time prescribed by the Act or this Part, the designated period of time begins to run the day after the act, event, or default and ends on the last day of the period so computed." 80 Ill. Admin. Code §

1200.30(a). Section 1200.30(b) stated that “[w]hen a time period prescribed under the Act or this Part is less than 7 days, intervening Saturdays, Sundays or legal holidays shall not be included.” 80 Ill. Admin. Code § 1200.30(b). The Complaint was issued and mailed to Respondent on Thursday, February 19, 2015. Service on Respondent was therefore presumed effective on Tuesday, February 24, 2015. Under Section 1220.40(b) of the Rules, Respondent was required to submit an answer to the complaint within 15 days of service. Thus, a timely answer should have been postmarked no later than Wednesday, March 11, 2015.

The Board and the courts have consistently applied Board Rule 1220.40(b) in holding that a respondent’s failure to timely file an answer to a complaint results in the admission of all allegations in the complaint and an entry of default judgment. Wood Dale Fire Prot. Dist. v. Ill. Labor Rel. Bd., 395 Ill. App. 3d 523 (2nd Dist. 2009), aff’g Wood Dale Fire Prot. Dist., 25 PERI ¶ 136 (IL LRB-SP 2008); Metz v. Ill. State Labor Rel. Bd., 231 Ill. App. 3d 1079 (5th Dist. 1992), aff’g Cir. Clerk of St. Clair Cnty., 6 PERI ¶ 2036 (IL SLRB 1990); Chicago Hous. Auth., 10 PERI ¶ 3010 (IL LLRB 1994). Respondent has not filed an answer nor has it responded to the Order to Show Cause and therefore has failed to allege a reason for its failure to submit its answer to the Complaint. Accordingly, Respondent has waived its right to a hearing in this matter and admitted the material factual and legal allegations contained in the Complaint for Hearing.

By failing to file an answer, Respondent has admitted the following material facts and legal allegations as stated in the complaint:

1. At all times material, the Respondent has been a public employer within the meaning of Section 3(o) of the Act.
2. At all times material, the Respondent has been subject to the jurisdiction of the State Panel of the Board, pursuant to Section (a-5) of the Act.
3. At all times material, Respondent has been subject the Act, pursuant to Section 20(b) thereof.
4. At all times material, Charging Party has been a labor organization within the meaning of Section 3(i) of the Act.
5. At all times material, the Charging Party represents a bargaining unit (Unit) comprised of all full-time sworn police officers, excluding all supervisory employees with the rank of sergeant or above, employed by the Respondent.
6. In or around March of 2014, the parties reached a tentative agreement for a successor collective bargaining agreement (Agreement).

7. On or about October 6, 2014, Charging Party presented the Agreement to the City.
8. To date, the City has failed and refused to sign the Agreement.
9. On or about June 5, 2014, Respondent and Charging Party postponed an arbitration hearing until the Respondent provided Charging Party payroll records of past insurance deductions.
10. The payroll records referenced in paragraph 9 are relevant and necessary for the Charging Party to adequately represent its membership during grievance arbitration.
11. To date, the Respondent has not provided the Charging Party with the documents referenced in paragraph 9.
12. By its act and conduct as referenced in paragraph 8, the Respondent has violated Sections 10(a)(7) and (1) of the Act.
13. By its act and conduct as referenced in paragraph 11, the Respondent has violated Sections 10(a)(4) and (1) of the Act.

III. CONCLUSIONS OF LAW

1. Respondent violated Section 10(a)(7) and (1) of the Act when it failed and refused to sign the Agreement memorializing the tentative agreement for a successor collective bargaining agreement reached by the parties in or around March 2014.
2. Respondent violated Section 10(a)(4) and (1) of the Act when it failed to provide the Charging Party with the payroll records of past insurance deductions.

IV. RECOMMENDED ORDER

IT IS HEREBY ORDERED that the Respondent, City of Chicago Heights, its officers and its agents shall:

1. Cease and desist from:
 - a. Failing and refusing to sign the Agreement memorializing the tentative agreement for a successor collective bargaining agreement reached by the parties in or around March 2014.
 - b. Refusing to provide the Charging Party, Policemen's Benevolent and Protective Association with the payroll records of past insurance deductions.
2. Take the following affirmative action designed to effectuate the policies of the Act:
 - a. Sign and execute the Agreement memorializing the tentative agreement for a successor collective bargaining agreement reached by the parties in or around March 2014.
 - b. Provide the Charging Party with the payroll records of past insurance deductions.

- c. Post, for 60 consecutive days, at all places where notices to employees of the Respondent are regularly posted, copies of the attached notice. Respondent shall take reasonable steps to insure that the notices are not altered, defaced, or covered by any other material.
- d. Notify the Board, in writing, within 20 days of the date of this order, of the steps that the Respondent has taken to comply herewith.

V. 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 seven (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, IL 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 at Chicago, Illinois this 13th day of April, 2015.

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



**Deena Sanceda
Administrative Law Judge**

NOTICE TO EMPLOYEES

FROM THE ILLINOIS LABOR RELATIONS BOARD

S-CA-15-049 Addendum

The Illinois Labor Relations Board, State Panel has found that City of Chicago Heights has violated the Illinois Public Labor Relations Act and has ordered us to post this Notice. We hereby notify you that:

The Illinois Public Labor Relations Act gives you, as employees, these rights:

- To engage in self-organization
- To form, join or assist unions
- To bargain collectively through a representative of your own choosing
- To act together with other employees to bargain collectively or for other mutual aid and protection
- To refrain from these activities

The Act further imposes upon a public employer and the exclusive representative of a bargaining unit the duty to bargain collectively.

Accordingly, we assure you that:

WE WILL sign and execute the Agreement memorializing the tentative agreement for a successor collective bargaining agreement reached by the parties in or around March 2014.

WE WILL provide the Policement's Benevolent and Protective Association with the payroll records of past insurance deductions.

This Notice shall remain posted for 60 consecutive days at all places where notice to employees are regularly posted.

DATE _____

City of Chicago Heights

ILLINOIS LABOR RELATIONS BOARD

One Natural Resources Way, First Floor

Springfield, Illinois 62702

(217) 785-3155

160 North LaSalle Street, Suite S-400

Chicago, Illinois 60601-3103

(312) 793-6400

**THIS IS AN OFFICIAL GOVERNMENT NOTICE
AND MUST NOT BE DEFACED.**
