

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

James Young,)	
)	
Charging Party,)	
)	
and)	Case No. S-CA-15-095
)	
Village of University Park,)	
)	
Respondent.)	

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

On May 29, 2015, Executive Director Melissa Mlynski issued an order holding in abeyance the above-captioned matter (Abeyance Order), pending final disposition of related contractual grievances. On January 15, 2015, James Young, (Charging Party) filed a 17-page charge, which alleged that the Village of University Park (Respondent) engaged in unfair labor practices within the meaning of Section 10(a)(1) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2014, as amended). As a part-time employee of Respondent, Charging Party was a member of a bargaining unit represented by the American Federation of State County and Municipal Employees, Local 3837 (AFSCME) and covered by a collective bargaining agreement (CBA) between AFSCME and Respondent. The Executive Director determined that specific conduct alleged in the charge is covered by a series of grievances that are currently pending on behalf of Charging Party under the CBA's grievance procedure.

The Charging Party filed a timely appeal of the Executive Director's Abeyance Order pursuant to Section 1200.135(a) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1200.135(a). The Respondent did not file a response. Notably, Charging Party articulates no exception to the substantive determination that the matter be held in abeyance until final disposition of the related grievances. The only issue that Charging Party raises in his Appeal is that a summary of the charge contained in the

Abeyance Order (Charge Summary) purportedly contains two incorrect statements. As an initial matter, this Board cannot reconcile any alleged discrepancies between the charge and the Executive Director's summary of the charge. More fundamentally, even if the Charge Summary were clearly inaccurate, as Charging Party contends, there is absolutely no viable reason to modify the Charge Summary because it has no legal significance in this case and is merely offered to provide background information in the limited context of the Abeyance Order, which Charging Party has not challenged on the merits. The entire Charge Summary, including the alleged incorrect facts, does not constitute findings of fact and cannot be relied on for any other purpose in this or any related litigation. Accordingly, we deny Charging Party's request that we modify the language contained in the Abeyance Order.

Further, after reviewing the record and appeal, we uphold the Executive Director's Order Holding Case in Abeyance for the reasons stated therein.

BY THE STATE PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

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

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

/s/ John R. Samolis
John R. Samolis, Member

/s/ Albert Washington
Albert Washington, Member

Decision made at the State Panel's public meeting in Chicago on August 11, 2015, written decision issued in Chicago, Illinois on August 25, 2015.

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Respondent)	

ORDER HOLDING CASE IN ABEYANCE

On January 15, 2015, James W. Young (Young or Charging Party) filed a charge in Case No. S-CA-15-095 with the State Panel of the Illinois Labor Relations Board (Board), alleging that the Village of University Park (Village or Respondent) engaged in unfair labor practices within the meaning of Section 10(a) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2012), *as amended* (Act). After an investigation conducted in accordance with Section 11 of the Act, I determined that this charge should be held in abeyance pending the completion of contractual grievances.

I. INVESTIGATORY FACTS

Charging Party was employed as a part-time police officer by the Respondent. As such, he was a member of a bargaining unit (Unit) represented by the American Federation of State County and Municipal Employees, Local 3837 (AFSCME or Union). The Respondent and AFSCME are parties to a collective bargaining agreement (CBA) for the Unit that contains a grievance procedure that culminates in final and binding arbitration. Charging Party was also a union steward for Local 3837.

This unfair labor practice charge is a continuation of an ongoing dispute between the Charging Party and the Respondent. Young filed his first charge against the Village, Case No. S-CA-14-107, on December 24, 2013, and subsequently amended that charge two times. A portion of that charge has been dismissed¹ and another portion is currently pending a hearing before Administrative Law Judge Deena Sanceda.

The instant charge, which is seventeen pages long, raises the following allegations:

1. On or about August 14, 2014, Young attempted to resolve a benefit eligibility problem with his 2013/2014 sick time and vacation benefit. On his payroll check for the pay period ending February 16, 2014, there was a significant reduction in both his sick time and vacation time even though he had not used either benefit during that pay period. Young was unable to resolve this dispute and on September 15, 2014, he filed a grievance under his current collective bargaining agreement. At this time, that grievance is pending.
2. Two (2) other part-time police officers (Dan Piwowarski and Doug Weincer) had their work schedules changed to conflict with their full-time jobs. As such, Officer Piwowarski was terminated and Officer Weincer had to resign. Charging Party claims these schedule changes were in retaliation for Young's activities and for filing a joint grievance(s) against the employer. Officer Piwowarski has filed a grievance over his termination which is currently pending.²
3. Police Commander Stroud falsified Young's time card/records for the pay period September 1, through September 14, 2014. Young claims that he worked 2.15 hours in excess of the 32 hour maximum limit for part-time officers. He claims Commander

¹ See James Young and Village of University Park, 13 PERI ¶ 159, (ILRB LP 2015).

² Neither Piwowarski nor Weincer are parties to this charge.

Stroud reduced his pay by limiting him to the 32 hour maximum. The Charging Party has filed a grievance over this issue which is still pending.

4. On or about September 26, 2014, Young was involved in a child custody incident whereby his supervisor (Sergeant Glowinke) issued him a “written counseling statement”. Young claims that ultimately he received a letter from DCFS commending his actions on behalf of the children involved in that incident. Charging Party filed a grievance over the manner in which he was treated by Sergeant Glowinke and the issuance of the counseling statement. That grievance is currently pending.
5. On or about January 9, 2015, at approximately 6:00 p.m., Young was presented with a memorandum entitled, “Failure to Complete the Mandatory State and UPPD Departmental Firearms Qualifications as Scheduled.” This memorandum was hand delivered to the Charging Party at his residence by Sergeant Jason Kinnan. As per the memo, Young was directed to surrender his badge and departmental identification. Young cannot work as a part-time police officer without these items. Charging Party has filed a grievance over this issue which is currently pending.

In summary, Young claims that his relationship with the Village has deteriorated since he filed his initial charge with the Board. Young asserts that the Village is retaliating against him for his protected activity and for filing a charge with the Board in violation of Section 10(a)(1)(2) and (3) of the Act.

II. DISCUSSION AND ORDER

The Charging Party has presented evidence to show that he has engaged in activity that is protected by the Act and that he has engaged in proceedings before the Board. While the Charging Party asserts that the Respondent had animus toward his union activity and his filing of

a charge against the Village with the Board, there is no evidence that the Respondent is unwilling to proceed to arbitration on his grievances. As noted, the available evidence indicates that a series of grievances have been filed covering the specific conduct at issue in this charge and that those grievances are currently pending under the CBA's grievance procedure. There is no reason to believe that the grievance process itself is not fair or regular, or otherwise incapable of resolving these disputes.

Under these circumstances, the Charging Party will have the benefit of AFSCME's resources at the grievance process. As such, he will have its assistance, albeit from its perspective, in presenting the case. I believe that this benefit will outweigh the cost of the delay involved by holding the instant charge in abeyance.

The Board has adopted a policy of holding charges in abeyance under these circumstances.³ Indeed, a portion of the Charging Party's original charge was held in abeyance under very similar circumstances.⁴ The Board's policy requires the Respondent to keep the Board advised of the status of the grievances. I believe this is an appropriate *quid pro quo* for not proceeding with this case in two arenas. Should the Charging Party request to reopen the matter at the conclusion of the grievance process, I would then resolve the issue of whether any portion of the charge raises a question of law or fact to warrant a hearing in this matter and whether the grievance resolution is dispositive of the unfair labor practice charge.

Accordingly, **IT IS HEREBY ORDERED** that this charge be held in abeyance pending the final disposition of all of the contractual grievances referenced in this Order. **IT IS ALSO ORDERED** that the Respondents notify the Board and the Charging Party in writing of the final disposition of said grievances within 30 days of the completion of the process. Upon receipt of

³ See e.g., S-CA-94-23, (James Franzen), Order December 20, 1993; S-CA-95-3, (Debra Williams), Order September 21, 1994.

⁴ S-CA-14-107, Order Holding Case in Abeyance April 24, 2014.

this notice, the Board will entertain any motions concerning the charge from either party for a period of 15 days. If the Charging Party fails to request that the Board reopen the case within the time specified, this charge will be dismissed. If the Respondents fail to give notice in accordance with this order, the Charging Party may request to reopen the matter, and I will determine whether any issues for hearing remain under the Act.

This order of the Executive Director is an intermediate order that will become final unless either party files an appeal thereto with the State Panel of the Illinois Labor Relations Board. Appeals must be directed to the General Counsel of the Illinois Labor Relations Board at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103 within ten calendar days of service. If no appeals to this order are filed, the order shall stand.

Issued at Springfield, Illinois, this 29th day of May, 2015.

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



Melissa Mlynski, Executive Director