

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

Metropolitan Alliance of Police, Grundy)	
County Civilians, Chapter 693)	
)	
Charging Party,)	
)	
and)	Case No. S-CA-15-096
)	
County of Grundy,)	
)	
Respondent.)	

ORDER

On June 5, 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 September 9, 2015 public meeting, the Board, having reviewed the matter, 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the parties have waived their exceptions to the Administrative Law Judge's Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.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 9th day of September 2015.

**STATE OF ILLINOIS
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**Kathryn Zeledon Nelson
General Counsel**

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ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION AND ORDER

On January 15, 2015, Metropolitan Alliance of Police, Grundy County Civilians, Chapter 693 (“Charging Party” or “Union”), 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 County of Grundy (“Respondent” or “County”) violated Section 10(a)(4) and (1) of the Illinois Public Labor Relations Act (“Act”) 5 ILCS 315 (2012) as amended, when the County failed to provide the Union with requested information necessary for the Union to adequately represent the bargaining unit during negotiations. The charge was investigated in accordance with Section 11 of the Act and the Board’s Rules and Regulations, 80 Ill. Admin. Code, §§ 1200 through 1240 (“Rules”). On April 7, 2015, the Board’s Executive Director issued a Complaint for Hearing (“Complaint”). On May 12, 2015, the Union filed a Motion For Default. For the reasons identified below, I recommend the following:

I. BACKGROUND

According to the affidavit of service attached to the Complaint, the Board mailed a copy of the Complaint to Respondent’s attorney by U.S. mail on Thursday, April 7, 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.**

Upon the Union's inquiry, on May 12, 2015, the undersigned e-mailed the parties informing them that the Board had not received an answer to the Complaint. In an e-mail response, an attorney for the County informed the undersigned that he had not received the Complaint and asked that it be e-mailed to him so that the County could file an answer within 15 days of the e-mail. On May 12, 2015, the Union filed a Motion for Default, attached the Complaint, and served both documents on the County via U.S. mail and informally via e-mail. To date, the County has not filed an answer to the Complaint, nor has it responded to the Union's Motion for Default.

II. DISCUSSION AND ANALYSIS

The issue presented 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 no question of fact or law exists requiring resolution through a hearing.

Section 1220.40(b) of the Board's Rules provides:

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. Board Rule 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.” Section 1200.30(b) provides 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.” Board Rule 1200.30(c) further provides that the presumption of completed service “may be overcome by the addressee, with evidence establishing that the document was not delivered or was delivered at a later date.”

The Complaint was issued and mailed to Respondent on Tuesday, April 7, 2015. Service on Respondent was therefore presumed effective on Friday, April 10, 2015. Pursuant to 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 Monday, April 27, 2015.

Regarding the Respondent’s e-mail contesting that it did not receive the Complaint, while service of the Complaint is presumed, this presumption can be overcome by clear and convincing evidence to the contrary. Board Rule 1200.20 provides that documents may be filed in any of the following methods: 1) by actual delivery to the Board; 2) by U.S. mail or commercial parcel; or 3) by fax followed by filing of the original documents via mail or delivery. Pursuant to this Rule, an e-mail is not a filing. Given that Respondent has failed to submit a filing formally attesting that the Complaint was not properly served upon it, I find that the record does not contain clear and convincing evidence to overcome the presumption that the Complaint was served upon the County.

The Union’s Motion for Default is meritorious. 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). Board Rule 1200.45(c) provides that a non-moving party may file a response “or any other answering documents including memoranda and affidavits ... within 5 days after the service of the motion,

or as otherwise required by the Administrative Law Judge, or the Board.” The Union filed its Motion on Tuesday, May 12, 2015, and therefore service is presumed completed on Friday May 15, 2015. Therefore, Respondent should have filed any timely response no later than May 22, 2015. I find that on its face, the Union’s Motion is meritorious. Since Respondent has not responded or otherwise disputed the Motion, its merit is uncontested.

Respondent has not filed an answer, has not responded to the Union’s Motion, nor has it otherwise filed evidence that establishes that the Complaint was not properly served. Accordingly, pursuant to the Board’s Rules and precedent, Respondent has admitted the material factual and legal allegations contained in the Complaint. Therefore, I find that there is no question of fact or law necessitating a hearing in this matter.

III. RESPONDENT’S ADMISSIONS

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 5(a-5) of the Act.
3. At all times material, Respondent has been subject to 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) consisting of Respondent’s employees.
6. At all times material, the Charging Party and the Respondent have been in negotiations for an initial collective bargaining agreement (CBA).
7. By letter dated October 29, 2014, Charging Party requested the following information from Respondent:
 - Full payroll records of all represented bargaining unit members from November 1, 2011 - October 31, 2014, including but not limited to overtime documentation.
 - All records concerning compensatory time earned by all represented bargaining unit members from November 1, 2011 - October 31, 2014.

- All records concerning compensatory time used by all represented bargaining unit members from November 1, 2011-October 31, 2014.
 - All records concerning compensatory time paid (including but not limited to cashed out, distributed, paid as final compensation, etc.) for all represented bargaining unit members from November 1, 2011 - October 31, 2014.
8. The information requested, referenced in paragraph 7, is relevant and necessary for the Charging Party to adequately represent the Unit during negotiations.
 9. To date, Respondent has not fulfilled the entire information request.
 10. By its acts and conduct referenced in paragraph 9, the Respondent has violated Sections 10(a)(4) and (1) of the Act.

IV. CONCLUSIONS OF LAW

Respondent violated Section 10(a)(4) and (1) of the Act when it failed to provide the Union with following information as requested:

1. Full payroll records of all represented bargaining unit members from November 1, 2011 - October 31, 2014, including but not limited to overtime documentation.
2. All records concerning compensatory time earned by all represented bargaining unit members from November 1, 2011 - October 31, 2014.
3. All records concerning compensatory time used by all represented bargaining unit members from November 1, 2011 - October 31, 2014.
4. All records concerning compensatory time paid (including but not limited to cashed out, distributed, paid as final compensation, etc.) for all represented bargaining unit members from November 1, 2011 - October 31, 2014.

V. RECOMMENDED ORDER

IT IS HEREBY ORDERED that the Respondent, County of Grundy, its officers and its agents shall:

1. Cease and desist from:
 - a. Failing and refusing to entirely comply with the Union's information requests.
 - b. In any like or related manner, interfering with, restraining, Or coercing employees in the exercise of the rights guaranteed to them by the Act.

2. Take the following affirmative action designed to effectuate the policies of the Act:
 - a. Provide the Charging Party the following information:
 1. Full payroll records of all represented bargaining unit members from November 1, 2011 - October 31, 2014, including but not limited to overtime documentation.
 2. All records concerning compensatory time earned by all represented bargaining unit members from November 1, 2011 - October 31, 2014.
 3. All records concerning compensatory time used by all represented bargaining unit members from November 1, 2011 - October 31, 2014.
 4. All records concerning compensatory time paid (including but not limited to cashed out, distributed, paid as final compensation, etc.) for all represented bargaining unit members from November 1, 2011 - October 31, 2014.
 - b. 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.
 - c. 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.

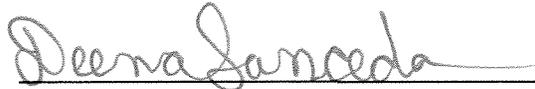
VI. EXCEPTIONS

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 Kathryn Nelson, General Counsel, 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 5th day of June, 2015.

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A handwritten signature in cursive script, reading "Deena Sanceda", written in black ink. The signature is positioned above a horizontal line.

**Deena Sanceda
Administrative Law Judge**