STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

Brian K. Trygg,	)	
	)	
Charging Party	)	
	)	
and	)	Case No. S-CB-10-024
	)	
General Teamsters/Professional & Technical Employees Local Union No. 916,	)	
	)	
Respondent	)	

DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD STATE PANEL

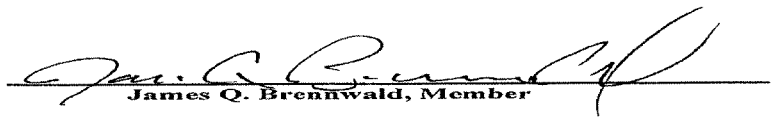
On December 7, 2012, Acting Executive Director Jerald S. Post issued an order dismissing the unfair labor practice charge filed by Charging Party Brian K. Trygg in the above-captioned case. The charge alleged that Respondent General Teamsters/Professional & Technical Employees, Local 916 engaged in unfair labor practices within the meaning of Section 10(b)(1) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2010).

On December 14, 2012, Charging Party filed a timely appeal of the dismissal pursuant to Section 1200.135 of the Rules and Regulations of the Illinois Labor Relations Board, 80 Ill. Admin. Code §1200.135. The Respondent filed no response. After reviewing the record and the appeal, we uphold the order dismissing the charge.

BY THE STATE PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

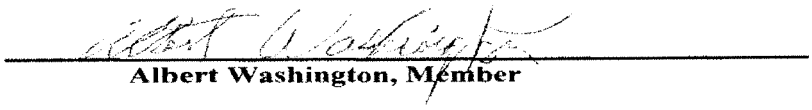
John Hartnett, Chairman

Paul S. Besson, Member



James Q. Brennwald, Member

Michael G. Coli,



Albert Washington, Member

Decision made at the State Panel's public meeting in Chicago, Illinois on March 12, 2013, written decision issued in Chicago, Illinois on May 20, 2013.

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Brian Trygg,	)	
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Charging Party	)	
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and	)	Case No. S-CB-10-024
	)	
General Teamsters/Professional and Technical Employees, Local 916,	)	
	)	
	)	
Respondent	)	

DISMISSAL

On December 30, 2009, Brian Trygg (Charging Party) filed a charge in Case No. S-CB-10-024 with the State Panel of the Illinois Labor Relations Board (Board), alleging that General Teamsters Professional and Technical Employees Local Union No. 916 (Respondent) engaged in unfair labor practices within the meaning of Section 10(b) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2010), *as amended* (Act). 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 issue this dismissal for the following reasons.

I. INVESTIGATORY FACTS AND POSITION OF THE CHARGING PARTY

The Charging Party is employed by the Illinois Department of Transportation in the classification of "Civil Engineer V" (CEV). On November 29, 2010, in Case No. S-UC-10-140, the Board certified the inclusion of the title into an existing bargaining unit represented by the Respondent.

Charging Party claims that on or about December 1, 2009, he received correspondence from the Respondent notifying him that Teamsters Local 916 was to be his bargaining agent and that union dues would begin being deducted from his payroll check in January 2010. This correspondence further notified Charging Party of the dues calculation process, as well as the initiation fee procedure. The correspondence also contained information concerning the Respondent's DRIVE program, which was an additional voluntary deduction for its political

action program. In closing, the correspondence identified Leo Carroll as the Business Agent for the Pro-Tech division and provided his contact information.

Charging Party claims that the Respondent's correspondence did not notify him of his right to non-association as guaranteed under the Act (5 ILCS 315/6(g)). Charging Party also states that he objects to membership and payment of union dues for religious reasons.

The Act defines "fair share agreement "as

> [a]n agreement between the employer and an employee organization under which all or any of the employees in a collective bargaining unit are required to pay their proportionate share of the costs of the collective bargaining process, contract administration and pursuing matters affecting wages, hours and other conditions of employment, but not exceed the amount of dues uniformly required of members. The amount certified by the exclusive representative shall not include any fees for contributions related to the election or support of any candidate for political office.

Section 6(e) of the Act authorizes fair share assessments as follows:

> When a collective bargaining agreement is entered into with an exclusive representative, it may include in the agreement a provision requiring employees covered by the agreement who are not members of the organization to pay their proportionate share of the costs of the collective bargaining process, contract administration and pursuing matters affecting wages, hours and conditions of employment, as defined in Section 3(g), but not to exceed the amount of dues uniformly required of members. The organization shall certify to the employer the amount constituting each nonmember employee's proportionate share which shall not exceed dues uniformly required of members. In such case, the proportionate share payment in this Section shall be deducted by the employer from the earnings of the nonmember employees and paid to the employee organization.

Section 6(g) protects those with religious objections to fair share fees:

> Agreements containing a fair share agreement must safeguard the right of nonassociation of employees based upon *bona fide religious tenets or teachings of the church or religious body of which such employees are members.* (Emphasis added)

Trygg asserts that he is currently a member of a Methodist congregation and also a member of Gideon's International, which he describes as a professional organization. During the course of the investigation, Trygg outlined the circumstances that he believes allows him to

request a waiver based on his religious beliefs. Charging Party claims that he is a Christian with values learned mainly from Presbyterian, Baptist and Methodist denominations as an Evangelical Christian and is a member of the Methodist church. Charging Party also asserts that the tenets of Gideon's International also conflict with the requirement created by a fair share provision.

Charging Party admits that he cannot directly point to a teaching of Christianity that prohibits payment to a Union but states, "the tenets of my belief are rooted in the need for me to be a professional man of good report and good standing, with high moral and religious standards. I believe the Lord has been with me and provided for me, and that I should not bow down to other gods." Charging Party's charge is based on Respondent's refusal to forward his fair share deduction to a charitable organization.

In his charge, Charging Party claimed that he did not know how to formally challenge the deduction for membership/dues to the Union. Charging Party also claims he was, for some period of time, unable to contact the Union about his wish to donate his fair share to a charitable organization. Instead, Charging Party contacted his employer, who in turn, directed him to a representative of the Union. Through a series of emails, Charging Party did make a formal request to have his fare share deduction forwarded to the American Diabetes Association. The available evidence shows that while the Respondent has acceded to the Charging Party's request for fair share fee payor status, it has not agreed to the Charging Party's request to be treated as a religious objector, and has declined to forward the fair share fees to a charity.

II. DISCUSSION AND ANALYSIS

The Charging Party makes two claims concerning the circumstances connected to his status as a fair share fee payor. First, he asserts that the process of raising the issue of his religious objection status was not clearly outlined for him and as such, he experienced difficulties in doing so. Second, he claims that the Respondent violated the Act by failing to treat him as a religious objector to fee contributions.

I note that the instant charge is the most appropriate forum to raise the religious objection issue, and that the Charging Party filed the instant case within weeks of becoming aware of the circumstances, and well within the Act's six-month statute of limitations. As such, the available evidence shows that while the Charging Party may have had to expend an effort to locate the Board and file the charge, he was able to do so in a timely, expedient fashion. Even had the circumstances been factually different, there is no support whatsoever for the proposition that the

Respondent has any obligation in this regard. Accordingly, this procedural claim lacks merit on its face.

The second claim in the charge is that the Charging Party is eligible to have the Respondent forward his fee payment to a charity, under the language of Section 6(g) of the Act. While the Board has little caselaw on this issue, one case that has been considered is Thomas Navratil and American Federation of State, County, and Municipal Employees, Council 31. 2 PERI ¶2044 (ISLRB General Counsel 1986). While it is non-precedential, the circumstances and facts associated with that case are very similar to those in the present charge. In Navratil, the charging party specifically objected to the union's representation of employees accused of misconduct, asserting that this conflicted with his deeply-held religious beliefs. The Board's Administrative Law Judge (ALJ) found that this constituted objection to the practical effect of, rather than moral inappropriateness of representing such employees.

The ALJ concluded that absent a specific tenet prohibiting support for the organization, the employee was not entitled to a Board order directing the labor organization to forward fees to a charity. Further, she proposed the following process for determining entitlement to religious exemption within the meaning of Section 6(g) of the Act. Where the claim is supported by church teachings, the employee must prove:

(1) That the claim is based upon a bona fide and sincerely held religious objection to union association, and

(2) That the objection is based upon a bona fide religious teaching of a church or religious body, and

(3) That the employee is a member of such church or religious body.

In cases where the claim is personally held and not supported by church teachings, the employee must prove by clear and convincing evidence:

(1) That the objection to union association is based upon bona fide religious beliefs, and

(2) That the religious nature of the objection is genuine and sincerely held.

Charging Party identifies himself as a Methodist, and concedes that his congregation does not prohibit membership in a union. So, while Charging Party presents the Board with information concerning his religious affiliation, he does not rely upon those teachings as support for his request for exemption. Rather, he claims he has a personal objection to paying fair share fees to the Respondent. However, apart from his assurances that there is a conflict, Charging

Party offers no framework or explication of how financial payment to a labor organization impinges upon his beliefs. While the Charging Party clearly asserts that he finds the fee abhorrent, he does not articulate the bona fide religious belief that is conflicted by the involuntary deduction of the fees. In other words, while the Charging Party credibly claims that he finds financial support of a labor organization offensive, he offers nothing to establish that this is something more than a personal predisposition on his part. Absent some evidence in this regard, the instant charge fails to raise an issue for hearing.

III. ORDER

Accordingly, the instant charge is hereby dismissed. 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 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 Chicago, Illinois, this 7th day of December, 2012.

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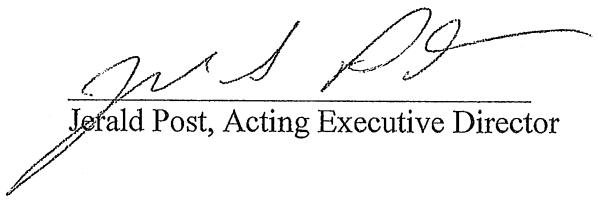

Jerald Post, Acting Executive Director