

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

Viridia Spain,)	
)	
Charging Party)	
)	
and)	Case No. S-CB-11-059
)	
American Federation of State, County)	
and Municipal Employees, Council 31,)	
)	
Respondent)	

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

On July 27, 2011, Executive Director John F. Brosnan dismissed the unfair labor practice charge filed by Viridia Spain (Charging Party) in the above-captioned case. The Charging Party alleged that American Federation of State, County and Municipal Employees, Council 31 (Respondent) violated Section 10(b) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2010), as amended (Act) in that, because she was a vocal member of the bargaining unit, Respondent (1) failed to accompany her to an interview with local police following the death of a disabled person in her care and (2) failed to challenge as untimely discipline later imposed by her employer, the State of Illinois, Department of Central Management Services, relating to the same incident.

The Executive Director dismissed the charges, finding the first allegation was outside the six-month limitation period established by Section 11(a) of the Act,¹ and that the second

¹ In relevant part, Section 11(a) provides:

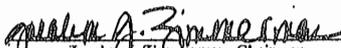
[N]o complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of a charge with the Board and the service of a copy thereof upon the person against whom the charge is made, unless the person aggrieved thereby did not reasonably have knowledge of the alleged unfair labor practice or was prevented

allegation failed to raise an issue for hearing in that there was no evidence Charging Party had been treated differently than others similarly situated, or that Respondent's refusal to further contest her discipline was based on anything other than its good faith assessment of the merits of her position.

The Charging Party 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, Parts 1200 through 1240, and Respondent filed a timely response. After reviewing the record, appeal and response, we uphold the Executive Director's dismissal for the reasons he stated. In her appeal, Charging Party claims others had been treated more favorably in that Respondent had pursued their grievances related to tardiness, interpersonal relationships between staff members, and altercations between staff members, but we find these situations are not similar to potential culpability in the death of a resident. And, particularly in light of the holding in Am. Fed'n of State, County and Mun. Empl., AFL-CIO v. Dep't of Cent. Mgmt. Serv., 173 Ill. 2d 299 (1996), (vacating on public policy grounds arbitration award reinstating employee of Department of Children and Family Services because discipline had been untimely), we find insufficient evidence that Respondent's failure to challenge the discipline on the basis of timeliness was based on anything other than its good faith assessment of the merits of the claim.

For these reasons, we affirm the dismissal of the charges.

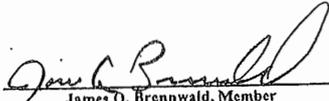
BY THE STATE PANEL OF THE ILLINOIS LABOR RELATIONS BOARD²

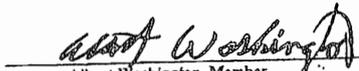

Jacaly J. Zimmerman, Chairman


Paul S. Besson, Member

from filing such a charge by reason of service in the armed forces, in which event the six month period shall be computed from the date of his discharge.

² Because the date of the Board's March meeting was rescheduled, Board Member Coli was unable to participate in consideration of this case.


James Q. Brennwald, Member


Albert Washington, Member

Decision made at the State Panel's public meeting in Chicago, Illinois, on March 13, 2012;
written decision issued at Chicago, Illinois, March 23, 2012.

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

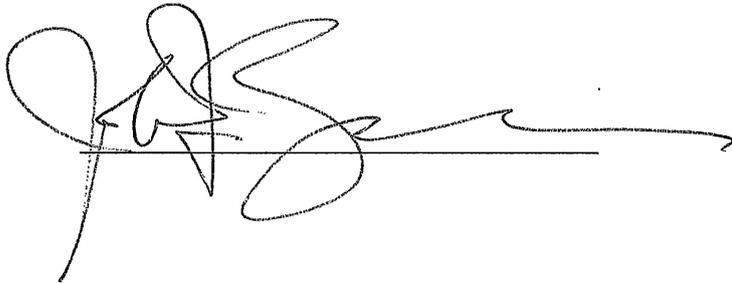
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AFFIDAVIT OF SERVICE

I, John F. Brosnan, on oath state that I have this 23rd day of March, 2012 served the attached **DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD STATE PANEL** issued in the above-captioned case on each of the parties listed herein below by depositing, before 5:00 p.m., copies thereof in the United States mail at 100 W Randolph Street, Chicago, Illinois, addressed as indicated and with postage prepaid for first class mail.

Thomas Edstrom
AFSCME Council 31
205 N Michigan Ave, Suite 2100
Chicago, Illinois 60601

Viridia Spain
1436 Garfield Ave
Belvidere, Illinois 61008



SUBSCRIBED and SWORN to
before me this 23rd day
of March 2012.



NOTARY PUBLIC

