

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

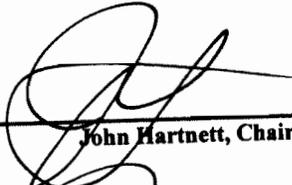
Julius C. Perryman,	)	
	)	
Charging Party	)	
	)	
and	)	Case No. S-CB-13-031
	)	
Teamsters, Local 700,	)	
	)	
Respondent	)	

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

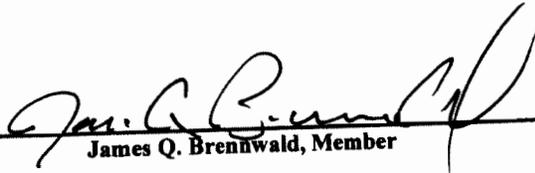
On April 5, 2013, Executive Director Melissa Mlynski dismissed the unfair labor practice charge filed by Julius C Perryman (Charging Party) in the above-captioned case. The Charging Party alleged that Teamsters, Local 700 (Respondent) engaged in unfair labor practices within the meaning of Section 10(b) of the Illinois Public Labor Relations Act, 5 ILCS 315/10(b) (2010), when Respondent failed to pursue Charging Party’s discharge grievance.

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 §1200.135(a). The Respondent filed no response. After reviewing the record and appeal, we uphold the Executive Director’s Dismissal.

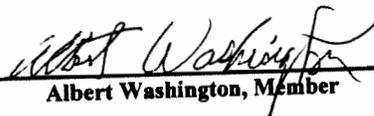
BY THE STATE PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

  
\_\_\_\_\_  
John Hartnett, Chairman

  
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Paul S. Besson, Member

  
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James Q. Brennwald, Member

  
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Michael G. Coli, Member

  
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Albert Washington, Member

Decision made at the State Panel's public meeting in Chicago, Illinois, on May 16, 2013; written decision issued at Chicago, Illinois, May 24, 2013.

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

Julius C. Perryman,	)	
	)	
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Charging Party	)	
	)	
and	)	Case No. S-CB-13-031
	)	
Teamsters, Local 700,	)	
	)	
	)	
Respondent	)	
	)	

**DISMISSAL**

On January 7, 2013, Julius C. Perryman (Charging Party) filed a charge in Case No. S-CB-13-031, with the State Panel of the Illinois Labor Relations Board (Board), in which he alleged that the Teamsters, Local 700 (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 hereby issues this dismissal for the following reasons.

**I. INVESTIGATORY FACTS AND POSITION OF THE CHARGING PARTY**

Charging Party is employed by the Illinois Department of Transportation as a “Highway Maintainer” and is a member of a bargaining unit (Unit) that is represented by the Respondent. Charging Party was progressively disciplined and eventually discharged for a series of incidents with co-workers, who are also Unit members. Charging Party details a number of these altercations for which he received a 5 day suspension, a 10 day suspension, a 29 day suspension and eventually a discharge. Charging Party claims he had to write and file his own grievances

regarding these disciplinary actions, and these grievances were never processed through the entire grievance procedure. Charging Party claims the Respondent has failed to represent him throughout his career and requests a refund of all dues paid to the Respondent.

## II. DISCUSSION AND ANALYSIS

Section 10(b)(1) of the Act provides that it shall be an unfair labor practice for a labor organization or its agents:

to restrain or coerce public employees in the exercise of the rights guaranteed in this Act, provided, (i) that this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein or the determination of fair share payments and (ii) that a labor organization or its agents shall commit an unfair labor practice under this paragraph in duty of fair representation cases only by intentional misconduct in representing employees under the Act.

In duty of fair representation cases, a two-part standard is utilized to determine whether a union has committed intentional misconduct within the meaning of Section 10(b)(1) of the Act. Under that test, a Charging Party must show that the union's conduct is intentional and directed at the employee, and secondly, that the union's intentional action occurred because of and in retaliation for some past activity by the employee or because of the employee's status (such as his or her race, gender, or national origin) or because of animosity between the employee and the union's representatives (such as that based upon personal conflict or the Charging Party's dissident union practices). The Board's use of this standard, which was developed from Hoffman v. Lonza, Inc., 658 F.2d 519 (7<sup>th</sup> Cir. 1981), was affirmed by the Illinois Appellate Court for the First District in Murry v. American Federation of State, County and Municipal Employees, Local 111, 305 Ill. App. 3d 627, 712 N.E.2d 874, 15 PERI ¶4009 (IL LLRB 1998).

In the instant case, it appears that that the crux of the charge is that Respondent did not process and/or arbitrate the Charging Party's grievances. However, the Charging Party failed to

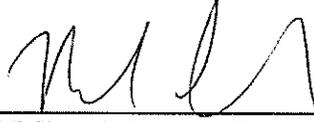
provide evidence that the Respondent's agents had a personal bias or some other motive to treat him differently than other employees in the Unit. Even assuming that Perryman is accurate in describing the degree of Respondent's inaction, absent some evidence that the Respondent's decisions had some improper motivation connected to a bias or animus against the Charging Party, the instant case does not 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, the dismissal will be final.

**Issued in Springfield, Illinois this 5<sup>th</sup> day of April, 2013.**

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



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**Melissa Mlynski, Executive Director**