

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

American Federation of State, County,)	
and Municipal Employees, Council 31,)	
)	
Petitioner,)	
)	Case No. S-RC-15-049
and)	
)	
Lake County Clerk of the Circuit Court,)	
)	
Employer.)	

ORDER

By Motion filed September 1, 2015, Employer, Lake County Clerk of the Circuit Court seeks to stay enforcement of the Illinois Labor Relations Board's July 21, 2015 Decision and Order that resulted in the July 23, 2015 Certification of Representation in the above-captioned matter. The Employer seeks the aforementioned stay pending the outcome of Employer's Petition for Administrative Review, Case No. 1-15-0849, now pending before the Illinois Appellate Court.

In its Motion, Employer points to no portion of the Illinois Public Labor Relations Act, 5 ILCS 315 (2014) as amended, or the Board's rules, 80 Ill. Admin. Code Parts 1200 through 1300, that provides the Board the authority to grant the requested stay. Even if such authority were implicit, I find that the movant has failed to make a showing sufficient to warrant the Board's granting the motion to stay.

While declining to articulate a ritualistic formula specifying the elements that may be considered in passing on a motion to stay, the Illinois Supreme Court has recognized the necessity of engaging in a balancing process that considers various elements bearing on the equitable nature of such relief. Stacke v. Bates, 138 Ill. 2d 295 (1990). Although the Court

declined to adopt a specific set of factors that must be reviewed in considering whether to grant a stay, it acknowledged the relevance of the following: 1) whether a stay is necessary to secure the fruits of a successful appeal; 2) the movant's likelihood of success in the appeal; and 3) whether the non-movant would suffer hardship in the event of a stay. Measured against these factors, the movant has not demonstrated that a stay is warranted in this matter.

The Board has long relied on the guidance provided by the Supreme Court in Stacke and declines to abandon that guidance in favor of a single decision of the Illinois Educational Labor Relations Board that adopts an entirely different "good cause" standard, as urged by the movant and on which the movant has predicated the entirety of its motion.¹

Here, the Employer has not articulated, let alone demonstrated, that a stay is necessary to secure the fruits of victory. In all cases before the Board, the parties' bargaining obligation begins with the Board's Certification Order. It remains the parties' obligation to bargain in good faith unless and until an appellate court reverses such certification and issues a mandate to the Board. The Employer offers no explanation for why this case warrants a process that is different from any other case in which one party appeals a Certification Order issued by the Board but is still required to bargain in good faith pending the outcome of such appeal.

The employer does not address the potential hardship a stay of bargaining may impose on the members of the bargaining unit in the event that their right to collective bargaining is affirmed by the appellate court; however, Petitioner persuasively argues that lengthy delays in bargaining a first contract and an inability to bargain over unilateral changes in terms and conditions of employment may frustrate bargaining unit members and diminish union support.

¹ AFSCME and McLean County Unit Dist. 5, 30 PERI ¶ 3 (IELRB May 16, 2013).

The Employer places great emphasis on the fact that the Board's decision derives from a tie vote that allowed to stand the Administrative Law Judge's Recommended Decision and Order; however, assertion that the existence of this tie vote, in and of itself, makes it likely that the Employer will prevail on appeal is unpersuasive.

For these reasons, the motion to stay is denied.

Issued in Chicago, Illinois this 16th day of September, 2015.

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A handwritten signature in cursive script, appearing to read "Kathryn Zeledon Nelson", written over a horizontal line.

**Kathryn Zeledon Nelson
General Counsel**