

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

Illinois Council of Police,)	
)	
Charging Party)	
)	
and)	Case No. S-CA-11-115
)	S-CA-11-131
Village of Sleepy Hollow)	
)	
Respondent)	

ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER

On December 19, 2010 and January 3, 2011, Illinois Council of Police (Charging Party or Union) filed charges in the above-referenced cases with the State Panel of the Illinois Labor Relations Board (Board) pursuant to Section 11 of the Illinois Public Labor Relations Act, 5 ILCS 315 (2010) as amended (Act), and the Rules and Regulations of the Illinois Labor Relations Board, 80 Ill. Admin. Code, Parts 1200 through 1240 (Rules), alleging that Village of Sleepy Hollow (Respondent) violated Section 10(a)(2) and derivatively (1) of the Act. The charges were investigated in accordance with Section 11 of the Act and on February 24, 2011, the Executive Director of the Illinois Labor Relations Board issued a Complaint for Hearing consolidating the cases. On March 10, 2011, the Respondent moved to sever the consolidated cases. On May 5, 2011, the undersigned issued an interim order denying the Respondent's motion.

A hearing in this case was held on June 1 and 2, 2011, in the Chicago offices of the Illinois Labor Relations Board at which time the Charging Party presented evidence in support of the allegations, and all parties were given an opportunity to participate, adduce relevant evidence, examine witnesses, argue orally and file written briefs. After full consideration of the

parties' stipulations, evidence, and arguments, and upon the entire record of the case, I recommend the following.

I. PRELIMINARY FINDINGS

The Parties stipulate and I find as follows:

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 Board's State Panel pursuant to Sections 5(a) of the Act.
3. At all times material, the Respondent has been a unit of local government subject to the Act pursuant to Section 20(b) of the Act.
4. At all times material, the Charging Party has been a labor organization within the meaning of Section 3(i) of the Act.
5. At all times material, Jeffrey Fleck and Steve Rodeback have been public employees within the meaning of Section 3(n) of the Act.
6. At all times material, the Village of Sleepy Hollow Police Department was under the supervision of Chief of Police, James Montalbano.
7. At all times material, Officer Steven Rodeback and Officer Jeffrey Fleck were part-time police officers for the Respondent.
8. During 2010, the Respondent had a total of five (5) Full-Time Officers and between ten (10) and thirteen (13) Part-Time Officers employed with the Police Department.
9. On April 28, 2010, the Charging Party was certified by the Illinois Labor Relations Board in Case No., S-RC-10-099 as exclusive representative of part-time police officers.
10. On November 16, 2010, the parties conducted their first negotiating session for the proposed collective bargaining agreement.
11. At all times material, Jeffery Fleck was not scheduled to work any duty shifts for the Respondent in September, October, November or December 2010.

12. At all times material, Steven Rodeback was not scheduled to work any duty shifts for the Respondent in October, November and December 2010.

13. On January 7, 2011, Chief James Montalbano notified Officer Steven Rodeback that he had been relieved of his duties as Range Officer for the Respondent.

II. ISSUES AND CONTENTIONS

The Charging Party argues that the Respondent retaliated against Officers Jeffrey Fleck and Steven Rodeback for engaging in their protected rights as President and Vice-President of the Union, respectively. The Charging Party contends that the Respondent refused to offer Officers Rodeback and Fleck any shifts on the monthly schedule and relieved Officer Rodeback of his duties as Range Officer.

The Respondent denies that it retaliated against Fleck and Rodeback arguing that they were removed from the schedule because they did not sign up for shifts according to protocol. The Respondent maintains that Rodeback was relieved as Assistant Range Officer due to his temper, lack of availability and failure to operate the firing shoots using up-to-date information.

III. FINDINGS OF FACT

Officer Jeffrey Fleck has been a part-time patrol officer with Respondent for approximately 23 years. He is also the President of the Union representing part-time officers. As president his duties include assisting with negotiating the contract and making sure officers follow the guidelines of such.

Fleck also assisted with the scheduling of shifts for part-time officers. Once the full-time staff has been given their shifts, an excel sheet is placed on the wall for all part-time officers to fill in their availability. Fleck was originally the person who put the schedule on the board and gave it to Sergeant Wilson or Chief Montalbano to finalize the schedule. Fleck was no longer given this duty once the part-time officers filed for union representation.

Officer Steven Rodeback has been a patrol officer for 18 years and has held the position of Assistant Range Officer for approximately five years. To become assistant range officer Rodeback was certified through NEMRT 40 hour certifications in firearms, patrol rifle, and FATS simulations. His duty included holding the annual qualifications course for all officers to maintain their shooting qualifications. Rodeback and Chief Montalbano usually worked together on this training. In October 2010, Rodeback was not asked to assist with the annual shoot and in January 2011, he received notice that he was no longer the Assistant Range Officer.

Chief Montalbano issued verbal orders to all part-time officers obligating them to sign up for at least two eight-hour shifts every pay period (every two weeks). On February 22, 2010 officer Fleck received a memorandum from Montalbano reminding him of the requirement to work at least two shifts per pay period. This memorandum also stated Montalbano's concerns with having adequate coverage for shifts and Fleck working less than the required amount of shifts ten out of the last twelve months from the date of the memorandum. Lastly, the memorandum addressed the Chief's need for Fleck to "step up" to avoid sending an officer on patrol without a backup unit. In 2011, Montalbano issued a written order to every officer notifying them of the minimum shift requirements.

In finalizing the schedule, Sergeant Wilson decides who gets a shift when more than one officer signs up for a shift. She also contacts officers after the schedule has been made if more shifts become available. Wilson testified that she does not contact officers Fleck, Rodeback or Mader because they specifically requested that she not contact them.

In the first six months of 2010 Fleck signed up for the following shifts: January (3), February (2), March (2), April (4), May (5) and June (1). During the same timeframe Rodeback signed up for the following shifts: January (4), February (5), March (5), April (3), May (4), June

(2). During this time, neither officer signed up for midnight shifts nor were they taken off of the schedule.

In September, October, November and December of 2010, officer Fleck and/or Rodeback was removed from the schedule. The Chief testified that this removal was due to the low morale throughout the office because other officers felt they were not pulling their weight because they did not sign up for the minimum required shifts and were not available for midnight shifts. Officer's Fleck and Rodeback attribute the removal to retaliation for them being president and vice-president of the Union. During this time officers Fleck and Rodeback were the only two officers taken off of the schedule.

In September 2010, Fleck signed up for two shifts, neither were midnight shifts, and he was not put on the final schedule. In October 2010, neither officer signed up for any shifts. Officer Rodeback states that he did not have the ability to do so because the sign-up sheet was taken down earlier than normal. Rodeback did testify that he, verbally and in writing, requested to work two shifts to Sergeant Wilson and that Sergeant Wilson stated she had to get confirmation from the Chief. Sergeant Wilson denies the requests were ever made.

In November Fleck signed up for three shifts and Rodeback signed up for four shifts. In December Fleck signed up for three shifts and Rodeback signed up for five shifts. Neither officer signed up for midnight shifts nor were they put on the final schedule for those months.

Chief Montalbano testified that he ordered Sergeant Wilson to keep Fleck and Rodeback off of the schedule if they were not going to sign up for the minimum required shifts, including midnight availability. Sergeant Wilson testified that she unilaterally decided to keep Fleck and Rodeback off of the schedule due to low morale because other officers were complaining about them not working the required shifts. Sergeant Wilson also testified that she works closely with

the officers because she also has patrol duty and this is how she received complaints about Fleck and Rodeback.

Officer Rodeback has been the Assistant Range Officer since 2005 and he, along with Chief Montalbano, conducted the shooting qualification trainings for all officers annually. These trainings were held in October. Normally the Chief would approach Rodeback with the date and location of the training. On October 22, 2010, Chief Montalbano held the training himself. Montalbano stated that he lost confidence in Rodeback's abilities because Rodeback did not provide him with the shooting guideline updates that Montalbano learned of through an FBI training course he attended in September 2010. Rodeback believes he was not involved with the training because the Chief was retaliating against him for being involved with the Union. Rodeback stated that he was too intimidated to ask the Chief why he was not directed to hold the training.

Montalbano testified that sometime in October 2010 he learned of some questionable behavior from Rodeback approximately twenty months earlier. Sergeant Wilson knew of the incident at the time it occurred in 2009 and testified that she forgot to mention it to the Montalbano because he was out of town at the time. Rodeback was never disciplined or counseled regarding the incident. Montalbano became aware of an incident in the neighboring town of Carpentersville where Rodeback got into an altercation with another officer over a ticket one of his family members received. Montalbano asked Sergeant Wilson to investigate the incident and Sergeant Wilson submitted a written report October 21, 2010. Because of this incident as well, Montalbano felt like Rodeback needed to be able to control his own temper in order to teach use of force to other officer, and this, along with his absences, also contributed to his refusal to have Rodeback assist with the training.

In or around December 2010, Rodeback asked for a meeting with Montalbano to discuss his duties as Assistant Range Officer. Chief Montalbano, Sergeant Wilson, Officer's Fleck and Rodeback and the Respondent's attorney Mark Shuster were all present at the meeting. According to the Charging Party, the discussion was mainly about the incident in Carpentersville and Rodeback's status as Assistant Range Officer was never discussed. On January 7, 2011, Rodeback received a memorandum from the Chief relieving him of his Assistant Range Officer duties. The letter specifically addressed Rodeback's failure to maintain firearm training standards and his absences over the course of the previous year making it difficult for communication.

Chief Montalbano maintains that he was not aware of either Fleck or Rodeback's status as president and vice-president of the Union until the first negotiations session, which was held on November 16, 2010. He acknowledged that Fleck informed him that the part-time officers were organizing in March 2010 and that Fleck was present during the disciplinary hearing of another officer in August 2010. The Charging Party maintains that when the disciplinary hearing went into executive session Fleck remained and was introduced as the president of the union.

IV. DISCUSSION AND ANALYSIS

Section 10(a)(2) of the Act prohibits discrimination by an employer in order to encourage or discourage support for any labor organization. In City of Burbank v Illinois State Labor Board, 128 Ill. 2d 335, 5 PERI ¶ 4013 (1989), the Illinois Supreme Court set forth the standard that must be applied in cases alleging a violation of Section 10(a)(2) of the Act. A charging party must first establish a prima facie case in support of the alleged violation of the Act, proving, by a preponderance of the evidence, that (1) he was engaged in union activity, (2) that the respondent had knowledge of such activity, and (3) that the respondent took adverse

employment action against him as a result of his involvement in activity with or in support of a union, in order to encourage or discourage union membership or support.

The Board may infer the requisite discriminatory motivation on the part of a respondent from either direct or circumstantial evidence including the timing of the adverse action in relation to the occurrence of the union activity, a pattern of a respondents' conduct directed at those engaging in union activity, that is, disparate treatment of employees, shifting explanations for a respondent's actions, and inconsistency in the reasons given for its actions against a charging party as compared to other actions by the particular respondent. Id. If by these various means a charging party establishes a prima facie case, the burden shifts to the respondent, who may demonstrate that even absent that prohibited motivation, it would have taken the same action against the charging party for legitimate business reasons. Id.

The Charging Party has established that Officers Fleck and Rodeback were engaged in protected union activity. Fleck and Rodeback are president and vice-president of the Union, respectively. In March 2010 it was Officer Fleck who notified Chief Montalbano that the part-time officers were seeking union representation. The officers were ultimately certified in the bargaining unit April 28, 2010. In August 2010, Fleck also assisted an officer in a disciplinary hearing. Chief Montalbano was present at the hearing and although he denies hearing the acknowledgement that Fleck was union president, he did admit that Fleck stayed in the hearing when it went into executive session. Moreover, Montalbano's presence at the meeting was enough to recognize that Fleck was engaging in union protected activity by assisting the officer along with other members of the union. Fleck and Rodeback were also involved with contract negotiations for the collective bargaining agreement as early as November 16, 2010.

The Respondent admits that it had knowledge of Fleck and Rodeback's protected activity as of the negotiations meeting but because that meeting was held at least two months after the alleged adverse action, the Respondent argues that there is no evidence that the Employer retaliated against the officers because of their protected activity. However, an employer may be charged with knowledge of union activities without the need for direct proof where the setting is a "small plant" because an employer at a small facility is likely to notice activities at the plant due to the closer working environment between management and labor. Rockford Township Highway Department v. State Labor Relations Board, 153 Ill. App. 3d 863, 881 (2d Dist. 1987). The small plant doctrine cannot be used to infer a public employer's knowledge of an employee's union activity unless that activity is carried on at a small work site and in a manner that at such times an employer may be presumed to have noticed them. City of Sycamore, 11 PERI ¶ 2002 (IL SLRB 1994); Champaign County Clerk of the Circuit Court, 8 PERI ¶ 2025 (IL SLRB 1992); Village of Glenwood, 3 PERI ¶ 2056 (IL SLRB 1987), County of Peoria, 3 PERI ¶ 2028 (IL SLRB 1987). At all times material, the Village of Sleepy Hollow's Police Department consisted of one chief, one sergeant, approximately five full-time patrol officers and seven to thirteen part-time patrol officers. The part-time officers became certified in the bargaining unit on April 28, 2010.

Here, there is direct proof that Chief Montalbano knew of Fleck's protected activity in August 2010 when he assisted at the disciplinary hearing. At that time Fleck and Rodeback had already been name president and vice-president of the union, respectively. Montalbano also acknowledged being surprised when Officer Fleck who informed him that the part-time officers were organizing in March 2010. Montalbano then told Sergeant Wilson that the part-time officers were organizing. Sergeant Wilson also testified that she is privy to complaints and

issues amongst the officers due to their close working relationship while being on patrol. Due to the close working relationship, Wilson testified to learning of the low morale throughout the office due to Fleck and Rodeback not signing up for particular shifts. Wilson also learned immediately of the incident regarding Officer Rodeback and another officer in Carpentersville. Wilson testified to keeping Chief Montalbano informed on issues she learned from the other officers.

Because the union was certified only months before Fleck and Rodeback were taken off the schedule, there are no examples of filing grievances or other direct evidence that would have made Fleck and Rodeback's engagement in protected activity more widely known. Since the office is so small and Sergeant Wilson works closely with the patrol officers, I find that the Employer had knowledge of Fleck and Rodeback's protected activity prior to the negotiations meeting held November 16, 2010. In such a small office and close working environment it would be difficult for their support of the union to have gone unnoticed. Therefore, I find that the employer had knowledge of the Charging Party's protected activity.

This leaves the issue of the Respondent's motivation for keeping Fleck and Rodeback off of the schedule and removing Rodeback as Assistant Range Officer as the one remaining element of the alleged violation of Section 10(a)(2) to be considered. The Charging Party made a sufficient showing of a causal connection between Fleck and Rodeback's protected activity and the adverse actions suffered. The existence of such a causal link is a fact-based inquiry and may be inferred from direct or circumstantial evidence, including: the timing of the employer's action in relation to the protected activity; expressions of hostility toward protected activities; disparate treatment of employees or a pattern of conduct that targets union supporters for adverse employment action; inconsistencies between the proffered reason for the adverse action and

other actions of the employer; and shifting or inconsistent explanations for the adverse employment action. City of Burbank v. ISLRB, 128 Ill. 2d 335, 5 PERI ¶ 4013 (1989). Several of these factors are present in this case.

The timing of the employer's action in relation to the protected activity provides an example of a causal connection. Montalbano's knowledge of the part-timers' intent to organize in March 2010 and Fleck's presence at a disciplinary hearing in August 2010 are direct examples of the Charging Party engaging in protected activity that occurred merely months before Fleck and Rodeback were removed from the schedule in September 2010 and Rodeback was not enlisted to assist as Assistant Range Officer in October 2010. Prior to that Fleck and Rodeback were also named president and vice-president of the local union. While the Board has held that a termination occurring four months after an employee's last concerted activity is not sufficient to establish retaliation, County of Cook, 11 PERI ¶ 3012 (IL LLRB 1995), here, the difference is of several weeks to two months makes the action sufficiently proximate in time. However, the mere coincidence of the employee's union activity to the time of his or her discipline, alone, will not support a charge of retaliation. County of Williamson, 13 PERI ¶ 2015 (IL SLRB 1997); see also Broadway Motors Ford, Inc. v. National Labor Relations Board, 395 F.2d 337, 340 (8th Cir. 1968); City of Kewanee, 23 PERI ¶ 110 (IL LRB-SP 2007).

The Respondent's witnesses' testimony was also inconsistent. Wilson testified to independently making the decision to remove Fleck and Rodeback from the schedule without the Chief Montalbano's knowledge in September 2010. Montalbano then testified that he directed Wilson to do so after Wilson informed him of the low morale amongst the officers. Wilson also testified to not having knowledge of Rodeback's altercation with another officer in Carpentersville on direct examination. However, on cross-examination, Wilson admitted to

being informed about the incident and discussing it with Rodeback shortly after it occurred. Lastly, Wilson testified to keeping Montalbano informed on whatever is happening throughout the office; however, Wilson conveniently forgot to inform Montalbano of the incident in Carpentersville until over a year and a half later.

Chief Montalbano also provided shifting explanations for failing to keep Rodeback involved as Assistant Range Officer. Montalbano testified that he relied on Rodeback to provide updates regarding new shooting procedures but also that as Assistant Range Officer there were no requirements for continuing education or any other formal training to keep up with updates. Montalbano testified that he learned of the new requirements about a month prior the annual shoot but that he did not share this information with Rodeback. Montalbano acknowledges Rodebeck's duty as Assistant Range Officer is to assist him in the annual training shoots.

Regarding the incident in Carpentersville, Montalbano testified that the report provided by Wilson also weighed in his decision not to use Rodeback during the October training because he could not control his temper. However, Sergeant Wilson's investigatory report was furnished one day before the shoot was scheduled to be held. Montalbano knew well before the dated report that he was not going to enlist Rodeback in assisting with the shoot.

Lastly, in the letter Montalbano sent Rodeback January 7, 2011 effectively relieving him of his duties as assistant range officer, Montalbano states his failure to maintain the department's firearm training standards and the lack of communication due to Rodeback's absences as the reasons in which he was relieved of his duties. The letter fails to mention Rodeback's ability to control his temper or the incident with the Carpentersville police officer. Moreover, there is no evidence that Rodeback was ever in charge of maintaining firearm standards. Montalbano's

testimony and the letter to Rodeback show grave inconsistencies. Therefore his reasoning for taking away Rodeback's title as assistant range officer proves merely pretextual.

Possibly the most telling example of a causal connection between the protected activity and adverse action is the blatant disparate treatment. In order to prove disparate treatment giving rise to an inference of unlawful animus, the charging party bears the burden of demonstrating that employees who allegedly committed similar offenses, but had not engaged in union or protected, concerted activity, were not similarly disciplined. City of Decatur, 14 PERI ¶2004 (IL SLRB 1997), citing American Federation of State, County and Municipal Employees, Council 31 v. Illinois State Labor Relations Board, 175 Ill. App. 3d 191, 197, (1st Dist. 1988). The Chief testified that Fleck and Rodeback were removed from the schedule because they failed to sign up for the minimum number of shifts *and* sign up for midnight shifts. The requirement for signing up for midnight shifts seemed to only be required of Fleck and Rodeback. From September through December 2010, three other officers failed to sign up for midnight shifts and they remained on the schedule. During that same time frame, Rodeback did sign up for the minimum number of shifts and he was still kept off of the schedule. In September, there was also another officer who signed up for less than the minimum required shifts, yet he was awarded shifts that month. Moreover, neither Fleck nor Rodeback signed up for midnight shifts from January 2010 through June 2010. Four of those months Fleck signed up for less than four shifts, and two of those months so did Rodeback but neither were removed from the schedule.

In finding that the Charging Party established a prima facie case, the burden now shifts to the Respondent. The Respondent has not established that Fleck and Rodeback would have been removed from the schedule or demoted as assistant range officer for legitimate business reasons notwithstanding their protected union activity. City of Burbank, 128 Ill. 2d at 346. Merely

proffering a legitimate business reason for the adverse employment action does not end the inquiry, as it must be determined whether the proffered reason is bona fide or pretextual. If the proffered reasons are merely litigious figments or were not, in fact relied upon, then the employer's reasons are pretextual and the inquiry ends. But when legitimate reasons for the adverse employment action are advanced, and are found to be relied upon at least in part, then the case may be characterized as a "dual motive" case, and the employer must establish, by a preponderance of the evidence, that the action would have been taken notwithstanding the employee's union activity. Id.

As it relates to the scheduling of Rodeback and Fleck, the Employer's disparate treatment is clear evidence that the Respondent's reasoning for not assigning them any shifts is mere pretext. Rodeback in fact signed up for at least four shifts in November and December as required by the Respondent but was still removed from the schedule. Fleck's failure to sign up for four shifts was no different than other officers who remained on the schedule. Also, there was no evidence presented that there was mandatory availability for midnight shifts which the Employer also relied on as its reasoning for removing Fleck and Rodeback from the schedule. Even if the Respondent provided evidence that being available for midnight shifts was mandatory, other officers were also unavailable during midnight shifts, and unlike Fleck and Rodeback, they remained on the schedule. Therefore, the Respondent's proffered reason for keeping Fleck and Rodeback off the schedule is merely pretextual.

Regarding the assistant range officer duties, the Respondent admitted that there are no requirements that the assistant range officer take any type of continuing education courses or any other training to fulfill a requirement that he or she have the knowledge that ensures all guidelines are up to date. Moreover, the Respondent provided no evidence that Rodeback was

held to this standard in his previous four to five years as assistant range officer. Moreover, Montalbano learned of the updates in the shooting training well before the annual shoot and decided not to share this information with Rodeback.

The Respondent's argument that Rodeback's absences in 2010 made him unavailable to assist with the annual shoot also prove problematic. Rodeback was on the schedule nine out of twelve months in 2010 and two of the three months he was not on the schedule were after the firearm training. Moreover, Rodeback was scheduled for four shifts just a month before the training in September 2010. Sergeant Wilson also has Rodeback's telephone number making him available by phone. This means that Montalbano had at least nine other months all prior to the firearm training to communicate with Rodeback. Instead, Montalbano testified that he decidedly refused to enlist Rodeback's assistance with the training due to his temper because of the Carpentersville incident. The Chief stated that after he learned of the Carpentersville incident, he did not want someone with such a temper teaching his other officers how to control their temper and that he lost confidence in Montalbano's abilities as assistant range officer. However, the incident occurred approximately 20 months prior to the investigation which means that Rodeback would have assisted with at least one annual shooting after the altercation. Moreover, Montalbano admits that it was not until the day before the shoot that he received Sergeant Wilson's investigatory report on the incident.

Because Wilson's and Montalbano's testimony has proved inconsistent, I find their testimony on this issue also unreliable. It does not seem mere happenstance that an act so egregious went unpunished or even disclosed merely because the Montalbano was out of town when it occurred. Furthermore, once Chief Montalbano became aware of the altercation Rodeback was never disciplined or confronted about the situation until Rodeback himself

requested a meeting with Montalbano regarding his status as assistant range officer. Although Montalbano claims he had no knowledge of the situation until October 2010, the fact that Sergeant Wilson knew of it almost immediately after it occurred, imputes her knowledge onto him.

In view of the foregoing findings and analysis, I find that the Charging Party has established, by a preponderance of the evidence that Respondent discriminated against Officer Fleck and Rodeback when it removed them from the schedule and relieved Rodeback of his duties as assistant range officer. I also find that the Respondent's proffered reasons fail to establish that the adverse actions occurred for a legitimate, nondiscriminatory business reason. Accordingly, I find that Respondent violated Sections 10(a)(2) and derivatively (1) of the Act.

V. CONCLUSION OF LAW

The Respondent, Village of Sleepy Hollow violated Section 10(a)(2) and derivatively (1), of the Act, by removing Jeffrey Fleck and Steven Rodeback from the schedule and relieving Steven Rodeback of his duties as assistant range officer, due to them engaging in union protected activities.

VI. RECOMMENDED ORDER

IT IS HEREBY ORDERED that the Village of Sleepy Hollow, its officers and agents, shall:

1. Cease and desist from retaliating against the Charging Party, Jeffery Fleck and Steven Rodeback, due to their engaging in protected union activities.
2. Take the following affirmative action designed to effectuate the purpose and policies of the Act:
 - a. Reassign Steven Rodeback as Assistant Range Officer of the Village of Sleepy Hollow Police Department.

- b. Make Steven Rodeback whole for the ten (10) shifts he was denied in October, November and December and for any other losses incurred by the Respondent's failure to schedule, including back pay with interest computed at the rate of seven percent per annum as allowed by the Act.

- c. Make Jeffery Fleck whole for eight (8) shifts he was denied September, November and December and for any other losses incurred by the Respondent's failure to schedule, including back pay with interest computed at the rate of seven percent per annum as allowed by the Act.

VII. 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 the 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 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 the Board's General Counsel at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 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 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 9th day of October, 2011

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

A handwritten signature in cursive script, appearing to read "Elaine L. Tarver", written over a horizontal line.

Elaine L. Tarver
Administrative Law Judge