

STATE OF DELAWARE

PUBLIC EMPLOYMENT RELATIONS BOARD

FRATERNAL ORDER OF POLICE, LODGE 1,)	
)	
Charging Party,)	
)	<u>ULP 10-12-782</u>
v.)	
)	ORDER OF DISMISSAL
CITY OF WILMINGTON, DELAWARE,)	
)	
Respondent.)	

APPEARANCES

Jeffrey M. Weiner, Esq., for FOP Lodge 1

Brenda James-Roberts, Esq., Assistant City Solicitor, for the City

BACKGROUND

1. The City of Wilmington (City) is a public employer within the meaning of §1302(p) of the Public Employment Relations Act, 19 Del.C. Chapter 13 (PERA).

2. The Fraternal Order of Police (FOP) is an employee organization within the meaning of 19 Del.C. §1302(i). By and through its affiliated Lodge 1, the FOP is the exclusive bargaining representative of employees of the Wilmington Police Department, including the ranks of Police Officer through Inspector, within the meaning 19 Del.C. §1302(j).

3. On or about December 20, 2010, the FOP filed an unfair labor practice charge with the Public Employment Relations Board (PERB) alleging conduct by the City in violation of 19 Del.C. §§ 1607(a)(1), (a)(5) and (a)(6).¹

¹ §1607 (a) It is an unfair labor practice for a public employer or its designated representative to do any of the following:

(1) Interfere with, restrain or coerce any employee in or because of the exercise of any right guaranteed under this chapter.

4. On or about January 25, 2011, the City filed its Answer to the Charge denying the allegations of the Charge.

5. A probable cause determination² was issued on May 18, 2011, which stated in relevant part:

Considered in a light most favorable to the FOP, the pleadings support the finding that there is probable cause to believe that a change in dental benefits may constitute a violation of 19 Del.C. 1607(a)(1) and/or (a)(5), as alleged.

The pleadings raise questions of fact which can only be resolved following a hearing convened for the purpose of creating an evidentiary record upon which a decision can be rendered. A hearing will be scheduled forthwith.

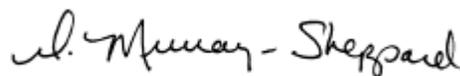
Thereafter, this office attempted to schedule the Charge for hearing. The parties notified PERB they were attempting to resolve the underlying issue through negotiations and the matter was held in abeyance in order to allow that process to work.

6. By email dated November 10, 2014, FOP Lodge 1 advised PERB that the underlying issue had been mutually resolved by the parties as it related to the bargaining unit of rank and file officers and that the issuance of the Binding Interest Arbitration Award resolved the issue as it related to the bargaining unit of WPD Captains and Inspectors.

WHEREFORE, this unfair labor practice charge is hereby dismissed.

IT IS SO ORDERED.

DATE: November 10, 2014



DEBORAH L.MURRAY-SHEPPARD
Executive Director, Delaware PERB

(5) Refuse to bargain collectively in good faith with an employee representative which is the exclusive representative of employees in an appropriate unit, except with respect to a discretionary subject.

(6) Refuse or fail to comply with any provision of this chapter or with rules and regulations established by the Board pursuant to its responsibility to regulate the conduct of collective bargaining under this chapter.

² *FOP Lodge 1 v. City of Wilmington*, ULP 10-12-782, VIII PERB 4964 (Probable Cause Determination, 2011).