

**STATE OF DELAWARE
PUBLIC EMPLOYMENT RELATIONS BOARD**

GEORGE SMITH,)	
Petitioner)	
)	
)	
v.)	ULP NO. 00-12-299
)	
INTERNATIONAL LONGSHOREMEN’S)	
ASSOCIATION, LOCAL 1694-1)	
Respondent)	

BACKGROUND

George Smith, an employee of the Diamond State Port Corporation, is a public employee within the meaning of Section 1302 (m) of the Public Employment Relations Act, 19 Del.C. Chapter 13 (1994) (“PERA” or “Act”). The International Longshoremen’s Association (“ILA” or “Union”) is an employee organization within the meaning of Section 1302 (h) of the PERA. The ILA is the exclusive representative of certain employees of the Port within the meaning of Section 1302 (i), of the PERA.

At all times relevant to this charge, ILA Local 1694-1 and the Port were parties to a collective bargaining agreement which included a grievance procedure.

DISCUSSION

The “Summary of the Pleadings” contained in the Executive Director’s decision dated January 26, 2001 contain the essential facts in this case. Mr. Long’s decision was subsequently appealed to the Public Employment Relations Board (“PERB”) for review.

The Petitioner contends his letter of June 15, 2000, to both the Union and DSPC requesting that his grievances be held in abeyance pending his return to work triggered the 180 day filing period. Notably, on that date neither the Union nor the DSPC did anything. In fact, the unfair labor practice was filed with the PERB on December 5, 2000, or approximately 8 ½ months after the specific action or inaction by the Union and DSPC set forth in the Complaint as the basis for the charge.

PERB Rule 1.10 provides that, “The Board shall strictly construe all time limitations contained in the Act and these Regulations.”

PERB Rule 5.2 requires that unfair labor practice complaints, “Must be filed within one hundred and eighty (180) days of the alleged violation.”

DECISION

19 Del. C. Section 1308, provides, in relevant part: “no complaint shall issue based on any unfair labor practice occurring more than 180 days prior to the filing of the charge with the Board.”

The Executive Director ruled, and the Board concurs, that the Respondent cannot avoid the 180 day filing requirement by relying upon an independent event which he unilaterally created and in which he alone participated. To conclude otherwise would violate Section 1308(a) of the Act and PERB Rule 1.10.

The Board upholds the Executive Director’s Decision of January 26, 2001 in which he found no probable cause to believe that an unfair labor practice had occurred and accordingly dismissed the charge in its entirety as untimely filed.

IT IS SO ORDERED.

/s/Henry E. Kressman
Henry E. Kressman
Chair

/s/R. Robert Currie, Jr.
R. Robert Currie, Jr.
Member

/s/Elizabeth D. Maron
Elizabeth Daniello Maron, Esq.
Member

DATE: March 21, 2001