

PUBLIC EMPLOYMENT RELATIONS BOARD
FOR THE STATE OF DELAWARE

SONJA TAYLOR-BRAY,)	
)	
)	
Appellant,)	PERB Review of the
)	Hearing Officer's Order
v.)	of Dismissal
)	
)	<u>ULP 09-11-716</u>
STATE OF DELAWARE, DEPARTMENT)	
OF SERVICES FOR CHILDREN, YOUTH)	
AND FAMILIES,)	
)	
Appellee.)	

Appearances

Sonja L. Taylor-Bray, pro se

Hannah Messner, State Labor Relations and Employment Practices

BACKGROUND

Sonja Taylor-Bray, (“Appellant”) was an employee of the State of Delaware, Department of Services for Children, Youth and Families (“DSCYF”) and was a public employee within the meaning of 19 Del.C. §1302(o), at all times relevant to the processing of this unfair labor practice charge.

The State of Delaware (“State”) is a public employer within the meaning of 19 Del.C. §1302(p). The Department of Services for Children, Youth and Families (“DSCYF”) is an agency of the State of Delaware.

On or about November 4, 2009, the Appellant filed an unfair labor practice charge alleging the State violated 19 Del.C. §1307(a)(1), (a)(3), (a)(4) and/or (a)(5). She alleges the termination of her employment on or about July 22, 2009 was retaliatory and effected

to prevent her from exercising her statutory rights to participate in union activities, including the grievance procedure. She seeks reinstatement to State employment.

On or about November 19, 2009, the State filed its Answer to the Charge, including Affirmative Defenses. The Appellant filed her Response to New Matter on December 2, 2009.

A Probable Cause Determination and Order of Dismissal was issued on June 1, 2010, in which the PERB Hearing Officer concluded:

The allegations contained in this Charge constitute Charging Party's position with respect to why there was no just cause for her termination. That issue is subject to resolution through the grievance procedure, and does not rise to the level of a potential unfair labor practice by the State under the circumstances asserted in this Charge.

The unfair labor practice charge is hereby dismissed in that it fails to allege facts sufficient to support a claim that 1307(a)(1), (a)(3), (a)(4) and/or (a)(5) was violated, as alleged.

On or about June 3, 2010, the Appellant requested review of the Hearing Officer's decision, requested the Hearing Officer's decision be reversed, that the State be found to have violated the statute as alleged, and that she be returned to State employment and be made whole.

On or about June 23, 2010, the State responded to the Request for Review, asserting the Hearing Officer's decision was proper and should be affirmed.

A copy of the complete record in this matter was provided to each member of the Public Employment Relations Board. A public hearing was held on July 21, 2010, at which time the full PERB met in public session to consider the request for review. The parties were afforded the opportunity to present oral argument and the decision reached herein is based upon consideration of the record and arguments presented to this Board.

DISCUSSION

The scope of the Board's review of a decision rendered by the Executive Director, or her designated Hearing Officer in this case, is limited to the record created before the Hearing Officer and must address whether the decision is arbitrary, capricious, contrary to law, or otherwise unsupported by the record. Upon consideration of the record and the basis for the appeal, the Board must formally vote to either uphold or overturn the decision, or it may remand it for further action to the Executive Director.

The Appellant asserts the contractual grievance procedure only addresses disciplinary discharges and does not cover dismissals for medical reasons. She argues she was terminated because she failed to apply for short-term disability benefits and that she was initially hired with permanent medium duty restrictions on her employment. She asserts the State's reason for terminating her based upon her inability to perform her job was a pretext for dismissing her based on personal differences with the Department's Human Resource Manager.

Whether Ms. Taylor-Bray's termination was proper and for just cause under the terms of the collective bargaining agreement was not before the Hearing Officer, and is not properly before this Board. This Board is charged with administering the Public Employment Relations Act, which limits the scope of its jurisdiction to matters concerning or arising out of the rights of public employees to collectively bargain. Simply stated, the Appellant has not provided any support for her charge that the State interfered with her rights under the PERA.

Upon review of the record and consideration of the arguments of the parties, the Board finds the Hearing Officer's decision was not arbitrary, capricious or contrary to law, and that it is based on the record before him.

DECISION

After reviewing the record and hearing and considering the arguments of the parties, the Board unanimously affirms the decision of the Hearing Officer finding no probable cause to believe an unfair labor practice may have occurred and dismissing the Charge.

Wherefore, the appeal is denied.

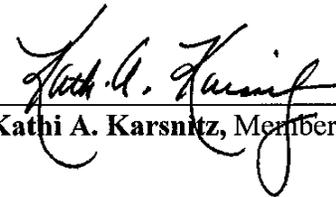
IT IS SO ORDERED.



Elizabeth D. Maron, Chairperson



R. Robert Currie, Jr., Member



Kathi A. Karsnitz, Member

DATED: August 13, 2010