

**STATE OF DELAWARE**  
**PUBLIC EMPLOYMENT RELATIONS BOARD**

<b>AMALGAMATED TRANSIT UNION, LOCAL 842,</b>	:	
	:	
Charging Party,	:	
	:	
v.	:	<b>ULP No. 13-05-902</b>
	:	
<b>STATE OF DELAWARE, DELAWARE TRANSIT</b>	:	<b>ORDER OF DISMISSAL</b>
<b>CORPORATION,</b>	:	
	:	
Respondent.	:	

**BACKGROUND**

1. The State of Delaware (State) is a public employer within the meaning of section 1302(p) of the Public Employment Relations Act, 19 Del.C. Chapter 13 (PERA). The Department of Transportation (DOT) is an agency of the State. The Delaware Transit Corporation (DTC) is a division of DOT.

2. The Amalgamated Transit Union, Local 842 (ATU) is an employee organization within the meaning of 19 Del.C. §1302(i) and the exclusive bargaining representative of certain employees of the DOT within the meaning of 19 Del.C. §1302(j).

3. ATU Local 842 and DTC are parties to a collective bargaining agreement which includes a negotiated grievance procedure that culminates in the submission of unresolved issues concerning the interpretation, application and/or operation of that agreement to final and binding arbitration before an arbitration panel chaired by an impartial arbitrator.

4. On or about May 8, 2013, the ATU filed an unfair labor practice charge (Charge)

with the Public Employment Relations Board (PERB) alleging conduct by the State in violation of 19 Del.C. §1307(a)(1), (a)(2) and (a)(4).<sup>1</sup> DTC filed its Answer denying the Charge on May 22, 2013, in which it included new matter. ATU 842 filed its response denying the new matter on May 30, 2013.

5. A probable cause determination was issued on August 23, 2013, in which the Charge was deferred for resolution of the underlying contractual interpretation issue to the parties' negotiated grievance and arbitration process.

6. Thereafter, DTC advised PERB it would oppose a demand for arbitration by challenging the timeliness of grievance.

7. Deferral is a discretionary act which is intended to allow the parties to attempt to resolve a statutory issue (where there is unity with a contractual claim) through their negotiated process for resolving contractual disputes. The grievance procedure is neither designed nor responsible for resolution of statutory issues. Deferral of an unfair labor practice charge does not divest PERB of its statutory responsibilities to administer the PERA. Consequently, PERB withdrew the deferral order and the Charge was twice scheduled for hearing, and twice continued as the parties attempted to resolve the underlying dispute

8. By email dated April 21, 2014, ATU Local 842 advised the Public Employment Relations Board the parties had reached a settlement agreement. The union requested

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<sup>1</sup> §1307 (a) It is an unfair labor practice for a public employer or its designated representative to do any of the following:

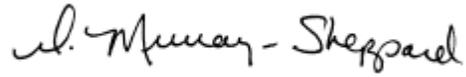
- (1) Interfere with, restrain or coerce any employee in or because of the exercise of any right guaranteed under this chapter;
- (2) Dominate, interfere with or assist in the formation, existence or administration of any labor organization;
- (4) Discharge or otherwise discriminate against any employee because the employee has signed or filed an affidavit, petition or complaint or has given information or testimony under this chapter.

to withdraw its Charge.

**WHEREFORE**, this unfair labor practice charge is hereby dismissed.

**IT IS SO ORDERED.**

DATE: May 19, 2014



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DEBORAH L. MURRAY-SHEPPARD  
Executive Director  
Del. Public Employment Relations Bd.