

STATE OF DELAWARE
PUBLIC EMPLOYMENT RELATIONS BOARD

TARANUM UPPAL,	:	
	:	
Appellant,	:	PERB Review of Executive
	:	Director's Decision
v.	:	
	:	
LILLIAN SHAVERS AND AMALGAMATED TRANSIT	:	ULP No. 18-01-1133
UNION, LOCAL 842,	:	
	:	
Appellees.	:	

APPEARANCES

Taranum Uppal, *pro se*, Appellant
Lillian Shavers, President, ATU Local 842, for Appellees

The Amalgamated Transit Union (“ATU”) is an employee organization within the meaning of §1302(i) of the PERA. By and through its affiliated Local 842, the ATU is the exclusive bargaining representative of a unit of “all hourly-rated operating and maintenance employees” employed by DTC in New Castle County,” within the meaning of §1302(j) of the PERA. Lillian Shavers is (and was at all times relevant to this Charge) the President of ATU Local 842.

Appellant Taranum Uppal (“Uppal”) was employed by the Delaware Transit Corporation (“DTC”)¹ and was a public employee within the meaning of §1302(o) until his termination. DTC and ATU Local 842 were parties to a collective bargaining agreement which includes a negotiated grievance and arbitration procedure for the resolution of contractual disputes.

¹ Delaware Transit Corporation is an agency of the Delaware Department of Transportation, and is a public employer within the meaning of §1302(p) of the Public Employment Relations Act (“PERA”), 19 Del.C. Chapter 13. Consequently, Uppal was a public employee within the meaning of 19 Del.C. §1302(o).

On or about January 2, 2018, Uppal filed an Unfair Labor Practice Charge with the Public Employment Relations Board (“PERB”) alleging that Shavers and ATU Local 842 had acted in violation of his rights and 19 Del.C. §1307(b)(1), (b)(3), (b)(5), and/or (b)(6). Specifically, he alleged ATU Local 842, through President Shavers, interfered with his protected rights under the PERA when she requested a former member cease communicating with current ATU Local 842 members by email, concerning union business. Uppal alleged this former member had been assisting him in his efforts to have the grievance concerning Uppal’s termination processed to arbitration.

On January 16, 2018, Shavers filed an Answer to the Charge on behalf of the Respondents in which she denied many of the factual allegations and all the legal conclusions included in the Charge. She also asserted the Charge failed to state a claim for which relief can be granted under the statute, which Uppal denied in his January 22, 2018 response.

On March 30, 2018, the Executive Director of the Public Employment Relations Board issued an order of dismissal, having found the pleadings failed to establish facts, which when viewed in a manner which favors Uppal, which could reasonably support the conclusion that a violation of the PERA may have occurred.

A copy of the record in this matter was provided to each member of the Public Employment Relations Board for review prior to hearing. A public hearing was convened on April 18, 2018, at which time the full Board met in public session to hear and consider this request for review. The parties were provided the opportunity to present oral argument and the decision reached herein is based upon consideration of the record and the arguments presented to the Board.

DISCUSSION

The Board’s scope of review is limited to the record created by the parties and

consideration of whether the decision is arbitrary, capricious, contrary to law, or unsupported by the record. After consideration of the record and the arguments of the parties on appeal, the Board must vote to either affirm, overturn, or remand the decision to the Executive Director for further action.

Uppal's arguments in support of his request for review related directly to justifications for the cell phone use incidents which lead to the termination of his employment, which he argued was without just cause. Shavers responded with information concerning the background for his termination, the grievance process, and the series of three meetings at which a majority of the union's membership who were present voted not to authorize arbitration for his grievance. None of this information was relevant to the decision which the Board was asked to review in this case.

The Board carefully reviewed the record in this case and finds the Executive Director's determination that the Charge fails to establish probable cause to believe that either ATU Local 842 or its President may have engaged in conduct which violates the PERA is neither arbitrary nor capricious.

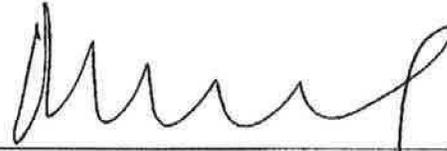
DECISION

After reviewing the record, hearing and considering the arguments of the parties, the Board unanimously affirms the decision of the Executive Director dismissing the Charge because it fails to establish probable cause to believe that either the Amalgamated Transit Union Local 842 or its President, Lillian Shavers, committed an unfair labor practice, as alleged by the Appellant.

Wherefore, the appeal of the dismissal of the Charge is denied.

IT IS SO ORDERED.


Elizabeth D. Maron, Chairperson



R. Robert Currie, Jr., Member



Kathi A. Karsnitz, Member

DATED: May 7, 2018