

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

<b>AMERICAN FEDERATION OF STATE, COUNTY AND</b>	:	
<b>MUNICIPAL EMPLOYEES, COUNCIL 81,</b>	:	
<b>LOCAL 320, AFL – CIO,</b>	:	
	:	
Charging Party,	:	
	:	<b><u>ULP No. 22-10-1331</u></b>
v.	:	
	:	<b>ORDER OF DISMISSAL</b>
<b>CITY OF WILMINGTON, DELAWARE,</b>	:	
	:	
Respondent.	:	

APPEARANCES

*Lance Geren, Esq., O’Donoghue & O’Donoghue, LLP, for AFSCME Local 320*  
*Caitlyn E. Quinn, Assistant City Solicitor, for the City of Wilmington*

**BACKGROUND**

1. The City of Wilmington, Delaware (“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 American Federation of State, County and Municipal Employees, AFL - CIO (“AFSCME”) Council 81 is an employee organization within the meaning of 19 Del. C. §1302(i). By and through its affiliated Local 320, it is the exclusive bargaining representative of a unit of City employees with the meaning of 19 Del. C. §1302(h).

The bargaining unit includes, without limitation, General Laborers, Equipment Operators, Nursery Technicians, Labor Foremen, Maintenance Mechanics, Technical Maintenance Mechanics, Sanitation Workers (Chuckers and Drivers), Building Technicians, Pool Mechanics, Traffic Maintenance Technicians, Traffic Technicians, Tree Climbers, Plant Mechanics, Plant

Operators, Small Engine Mechanics, and Senior Signal Electricians.

3. AFSCME Local 320 and the City are parties to a current collective bargaining agreement which has a term of July 1, 2020 through June 30, 2026.

4. On October 27, 2022, AFSCME Local 320 filed an unfair labor practice charge with the Public Employment Relations Board (“PERB”) alleging conduct by the City in violation of 19 Del. C. §1307(a)(1) and (a)(5).<sup>1</sup> The Charge alleged the City had unilaterally allowed temporary, non-bargaining unit employees to perform work traditionally performed by bargaining unit employees, namely leaf collection. AFSCME Local 320 asserted this constituted a unilateral change in working conditions in violation of the City’s duty to bargain collectively in good faith.

5. Prior to the City filing an Answer to the Charge, the parties agreed to extensions in order to allow for settlement discussions.

6. On November 14, 2022, the City filed its Answer to the Charge, including New Matter. The City asserted the Charge is now moot because as of November 4, 2022, it had ceased the use of extra temporary workers for its leaf collection program.

7. By email dated November 30, 2022, AFSCME Local 320 requested this Charge be dismissed. It stated that following its investigation, it had confirmed that the City had ceased its use of temporary workers and agreed with the City that the matter is moot.

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

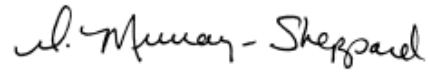
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<sup>1</sup> (a) It is an unfair labor practice for a public employer or its designated representative to do any of the following:

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

**IT IS SO ORDERED.**

DATE: December 8, 2022



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