

STATE OF DELAWARE
PUBLIC EMPLOYMENT RELATIONS BOARD

FRATERNAL ORDER OF POLICE LODGE 1,	:	
	:	
Charging Party,	:	
	:	<u>ULP No. 22-01-1294</u>
v.	:	
	:	
CITY OF WILMINGTON, DELAWARE,	:	ORDER OF DISMISSAL
	:	
Respondent.	:	

APPEARANCES

Jeffrey M. Weiner, Esq., for Charging Party, FOP Lodge 1
Lauren E.M. Russell, Esq., Young Conaway Stargatt & Taylor, LLP, for
City of Wilmington

1. The City of Wilmington (“City”) is a public employer within the meaning of §1602(13)¹ of the Police Officers’ and Firefighters’ Employment Relations Act, 19 Del. C. Chapter 16 (“POFERA”).

2. The Fraternal Order of Police Lodge 1 (“FOP Lodge 1”) is an employee organization and an exclusive bargaining representative, within the meaning of 19 Del. C. §§1602 (7) and (8). FOP Lodge 1 represents the bargaining unit of sworn City of Wilmington Police Officers in the ranks of Patrol Officer through Lieutenant (“rank and file unit”). It also represents a bargaining unit of senior Wilmington Police Officers holding the ranks of Captain and Inspector (“Captains and Inspectors unit”).

¹ Effective September 10, 2021, the Police Officers’ and Firefighters’ Employment Relations Act was amended. As part of that modification, all of the definitions contained in §1602 were renumbered.

3. The City and FOP Lodge 1 are parties to two collective bargaining agreements.

4. On January 11, 2022, FOP Lodge 1 filed an unfair labor practice charge with the Public Employment Relations Board (PERB) alleging conduct by the City in violation of 19 Del. C. §1607 (a)(3) and/or (a)(5). The Charge alleged the City unilaterally implemented mandatory COVID-19 testing and/or required WPD officers to use their earned leave in order to be paid for time they are unable or ineligible to work due to a positive COVID-19 test result and/or as a result of quarantine or isolation requirements.

5. The City filed its answer to the Charge on January 21, 2022, including in its New Matter (among other defenses) that because the FOP has raised an identical issue in a class action grievance which is being processed through the parties' negotiated grievance procedure, this charge should be deferred pending completion of the grievance and arbitration procedure.

6. FOP Lodge 1 filed its response denying the City's defenses on January 27, 2022.

7. Thereafter, a Probable Cause Determination and Order of Deferral was issued by the Public Employment Relations Board on February 18, 2022. The order stated, "Because the resolution of the allegations of this Charge requires a determination that there has been a change in the application of the parties' collective bargaining agreements, the Charge is deferred to the negotiated grievance and arbitration procedure."

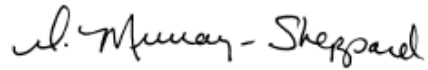
8. An arbitration decision was issued on December 19, 2022. A copy of that decision was provided to the Public Employment Relations Board on or about January 2, 2024.

9. By email dated January 6, 2024, FOP Lodge 1 confirmed that, "all issues were resolved by the Arbitrator's decision."

WHEREFORE, this unfair labor practice charge is hereby dismissed, as the underlying dispute was resolved through the parties' negotiated arbitration process.

IT IS SO ORDERED.

DATE: January 16, 2024



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