

STATE OF DELAWARE
PUBLIC EMPLOYMENT RELATIONS BOARD

INTERNATIONAL BROTHERHOOD OF ELECTRICAL	:	
WORKERS, LOCAL 126, AFL-CIO,	:	
	:	Unfair Labor Practice Charge
Charging Party,	:	<u>No. 26-01-1523</u>
	:	
V.	:	
	:	PROBABLE CAUSE DETERMINATION
TOWN OF SMYRNA, DELAWARE,	:	
	:	
Respondent.	:	

The Town of Smyrna, Delaware (“Town”) is a public employer within the meaning of 19 Del. C. §1302(p).

The International Brotherhood of Electrical Workers, AFL-CIO, is an employee organization within the meaning of 19 Del. C. §1302(i). By and through its affiliated Local 126, it is the exclusive bargaining representative of a bargaining unit of Town of Smyrna employees, within the meaning of 19 Del. C. §1302(j). IBEW Local 126 represents the bargaining unit which includes all Town of Smyrna Electric Department Employees in Groundhand Apprentice and Journeyman I, II, III positions.¹ DOL Case 319. *Charge Exhibit A.*

On or about October 16, 2025, IBEW Local 126 and the Town (“Parties”) entered into negotiations for an initial collective bargaining agreement.

On January 12, 2026, IBEW Local 126 filed an unfair labor practice charge with the Delaware Public Employment Relations Board (“PERB”) alleging conduct by the

¹ IBEW Local 126 was certified to represent this bargaining unit following an election conducted on October 2, 2025.

Town in violation of 19 Del. C. §1307(a)(5) and (a)(7), which state:

- (a) It is an unfair labor practice for a public employer or its designated representative to do any of the following:
 - (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.
 - (7) Refuse to reduce an agreement, reached as a result of collective bargaining, to writing and sign the resulting contract.

The Charge alleges that the Town has failed or refused to sign and implement the collective bargaining agreement reached by the parties through their negotiations, which was ratified by the bargaining unit on or about December 16, 2025.²

On January 29, 2026, the Town filed its Answer to the Charge denying many of the facts set forth in the Charge. Specifically, the Town asserts that the parties never reached agreement on the terms of Article XXVII, Subcontracting.

This probable cause determination is based on review of the pleadings submitted by the parties.

DISCUSSION

Rule 5.6 of the Rules and Regulations of the Delaware Public Employment Relations Board provides:

- (a) Upon review of the Complaint, the Answer and the Response the Executive Director shall determine whether there is probable cause to believe that an unfair labor practice may have occurred. If the Executive Director determines that there is no probable cause to believe that an unfair labor practice has occurred, the party filing the charge may request that the Board review the Executive Director's decision in accord with the provisions set forth in Regulation 7.4. The Board will decide such appeals following a review of the record, and, if the Board deems necessary, a hearing and/or submission of briefs.

² Charge, Exhibit C.

- (b) If the Executive Director determines that an unfair labor practice has, or may have occurred, he shall, where possible, issue a decision based upon the pleadings; otherwise, he shall issue a probable cause determination setting forth the specific unfair labor practice which may have occurred.

For purposes of reviewing the pleadings to determine whether a probable cause exists to support the charge, factual disputes revealed by the pleadings are considered in a light most favorable to the Charging Party in order to avoid dismissing a valid charge without the benefit of receiving evidence in order to resolve factual differences. *Flowers v. DOT/DTC*, ULP 04-10-453, V PERB 3179, 3182 (Probable Cause Determination, 2004).

The Charge alleges that the Parties reached an agreement on a complete collective bargaining agreement and that they provided a complete copy of that agreement to members of the Town's negotiating team to review prior to presenting the agreement for ratification by the bargaining unit. It asserts that by email dated December 16, 2025,³ both the Town Manager and the Town's Director of Human Resources approved the final draft agreement which included the Subcontracting language in Article XXVII, subsection 2, which states:

Section 2: The Town agrees to utilize subcontractors who are signatory with IBEW Local Union 126 on any project associated with work being performed on outside electrical construction or maintenance projects.⁴

The Town asserts that the Subcontracting language was not included in IBEW Local 126's initial proposal of October 16, 2025. It has provided an email from the Town's Director of Human Resources to IBEW Local 126, dated December 19, 2025,⁵ which

³ Charge, Exhibit C.

⁴ Charge, Exhibit B, p. 22.

⁵ Answer, Exhibit D.

states, “We have not signed the bargaining agreement because we had agreed that in reference to page 22 section 2, that we would NOT be required to use IBEW subcontractors. Please remove that section.” The Town further alleges the disputed language also violates the negotiated terms of Article VI, Management Rights.

The pleadings include both factual and legal issues which require the development of an evidentiary record on which argument can be made in order to support a determination on the merits of the Charge.

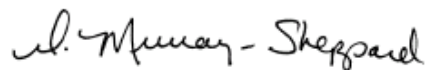
DETERMINATION

Considered in a light most favorable to the Charging Party, the pleadings are sufficient to establish that the Town may have violated 19 Del. C. §1307 (a)(5) and/or (a)(7), as alleged. The pleadings raise both questions of fact and law which can only be resolved following the creation of a complete evidentiary record and the consideration of argument.

WHEREFORE, a hearing will be promptly scheduled for the purpose of developing a full and complete factual record upon which argument can be made and a decision rendered concerning:

WHETHER THE TOWN OF SMYRNA, DELAWARE, FAILED OR REFUSED TO NEGOTIATE IN GOOD FAITH AND TO REDUCE ANY AGREEMENTS REACHED TO WRITING, IN VIOLATION OF 19 *DEL. C.* §1307(A)(5) AND/OR (A)(7), AS ALLEGED.

DATE: February 17, 2026



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