

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

<b>UTILITY WORKERS UNION OF AMERICA,</b>	:	
	:	<b>UNFAIR LABOR PRACTICE CHARGE</b>
Charging Party,	:	<b><u>No. 26-02-1530</u></b>
	:	
<b>v.</b>	:	
	:	<b>PROBABLE CAUSE DETERMINATION</b>
<b>CITY OF MILFORD, DELAWARE,</b>	:	
	:	
Respondent.	:	

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

The Utility Workers Union of America (“UWUA”) is an employee organization within the meaning of 19 Del. C. §1302(i). It is the exclusive bargaining representative of a bargaining unit of City of Milford employees, within the meaning of 19 Del. C. §1302(j). UWUA was certified on February 2, 2026, as a result of a card check verification<sup>1</sup> to represent the bargaining unit which includes All Full-Time and Regular Part-Time City of Milford Public Works employees in the Water & Sewer, Streets, and Solid Waste departments, including at this time Technicians, Senior Technicians, Equipment Operators and Senior Equipment Operators (excluding supervisory and managerial employees and guards). DOL Case 320.

On February 27, 2026, UWUA filed an unfair labor practice charge with the Delaware Public Employment Relations Board (“PERB”) alleging conduct by the City in violation of 19

<sup>1</sup> The PERA was modified effective September 2, 2025 ([85 Del. Laws, c. 193, § 2](#)) by the addition of a new §1311B, Majority verification procedure, which requires PERB to certify an employee organization which provides authorized signatures from more than 50% of the employees in the appropriate bargaining unit designating that organization as their exclusive representative.

Del. C. §1307 (a)(1), (a)(3), and (a)(4), which state:

- (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.
  - (3) Encourage or discourage membership in any employee organization by discrimination in regard to hiring, tenure or other terms and conditions of employment.
  - (4) Discharge or otherwise discriminate against an employee because the employee has signed or filed an affidavit, petition or complaint or has given information or testimony under this chapter.

The Charge alleges that the City retaliated against an employee by terminating his employment on or about February 2, 2026 after he announced to coworkers (in the presence of two supervisors) that being required to work an additional eight hour shift (after having just completed a scheduled 12-hour shift) would affect his vote in the certification election.

On March 11, 2026, the City filed its Answer to the Charge denying many of the facts set forth in the Charge. Specifically, the City asserts the employee was a probationary employee who was terminated for performance concerns and conduct issues which occurred on February 2, 2026.

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.

- (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 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. Whether the employee was a probationary employee and/or whether his termination was based on performance and conduct issues, or whether it was in retaliation for comments he made in support of the UWUA can only be determined following receipt of evidence and argument. It will be UWUA's burden to establish the alleged unfair labor practice occurred by a preponderance of the evidence.

### **DETERMINATION**

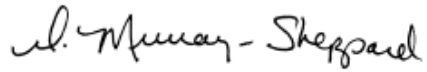
Considered in a light most favorable to the Charging Party, the pleadings are sufficient to establish that the City may have violated 19 Del. C. §1307 (a)(1) , (a)(3) and/or (a)(4), as alleged. The pleadings raise both questions of fact and law which can only be resolved following the creation of a complete 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 CITY OF MILFORD, DELAWARE, INTERFERED WITH, RESTRAINED OR COERCED AN EMPLOYEE BECAUSE OF ANY RIGHT GUARANTEED UNDER THE PERA; ENCOURAGED OR DISCOURAGED MEMBERSHIP IN THE UWUA BY DISCRIMINATION IN HIRING, TENURE OR OTHER TERMS AND CONDITIONS OF EMPLOYMENT; AND/OR DISCHARGED AN EMPLOYEE BECAUSE HE SIGNED OR FILED AN AFFIDAVIT, PETITION, OR COMPLAINT OR GAVE INFORMATION OR TESTIMONY UNDER THE PERA, IN VIOLATION OF 19 *DEL. C.* §1307(A)(1), (A)(3) AND/OR (A)(4), AS ALLEGED.

DATE: May 29, 2026



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