

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

KATHLEEN TOWNSEND

v.

CITY OF PHILADELPHIA

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Case No. PERA-C-17-32-E

FINAL ORDER

On February 8, 2017, Kathleen Townsend (Complainant) filed a Charge of Unfair Practices with the Pennsylvania Labor Relations Board (Board) against the City of Philadelphia (City), alleging a violation of Section 1201(a)(1), (2) and (3) of the Public Employe Relations Act (PERA). However, the specification of charges alleged that the Complainant is employed by the Philadelphia Court of Common Pleas (Court) and that the Court retaliated against her for attempting to organize the family court employees. On February 22, 2017, the Secretary of the Board declined to issue a complaint, stating that the Complainant had failed to list her employer (the Court) as a respondent, citing **Lebanon County Detectives Association v. Lebanon County**, 29 PPER ¶ 29005 (Final Order, 1997) (complainant must charge public employer that allegedly committed unfair practice). Accordingly, the Secretary dismissed the Charge.

On March 3, 2017, the Complainant filed an Amended Charge of Unfair Practices listing the Court as an additional Respondent.¹ The Complainant's original Charge filed against the City was ineffective in asserting an unfair practice under PERA because the alleged unfair practices concerned the Court's ability to hire, fire and direct its employees, and not any actions of the City. Accordingly, the Secretary did not err in declining to issue a complaint and dismissing the Charge.

This does not end the inquiry, as we must also address Complainant's amendment of the Charge to add the Court as an additional respondent. Pursuant to Section 95.32(a) of the Board's Rules and Regulations, a charge may be amended "if no new cause of action is added after the statute of limitations has run." 34 Pa. Code § 95.32(a). The Board has held that naming additional respondents to a charge adds a new cause of action and, therefore, such an amendment must be made within the applicable limitations period following commission of the alleged unfair practice. **Ingram v. AFSCME, District Council 33**, 26 PPER ¶ 26050 (Final Order, 1995) (citing **Kaolin Mushroom Farms, Inc. v. PLRB**, 642 A.2d 612 (Pa. Cmwlth. 1994)). Section 1505 of PERA provides that no charge shall be entertained which relates to acts which occurred or statements which were made more than four months prior to the filing of the charge. 43 P.S. § 1101.1505.

In her Amended Charge, the Complainant alleged that the Court retaliated against her by denying her request for overtime on October 24, 2016, and by amending her employee performance rating on November 1, 2016, to indicate that she needed to improve the processing of her work and deferring her salary increment. Therefore, the Complainant's Amended Charge filed on March 3, 2017, adding the Court as a Respondent is untimely because it was filed more than four months after she knew or should have known of the alleged unfair practices. **Stevenson v. Great Valley School District**, 47 PPER 59 (Final Order, 2015).

After a thorough review of the exceptions and all matters of record, the Board shall dismiss the exceptions and sustain the Secretary's decision declining to issue a complaint. Additionally, the Amended Charge filed on March 3, 2017 is untimely under Section 1505 of PERA and therefore, the Charge is dismissed.

¹ The Board Secretary treated this filing in the nature of exceptions to the dismissal of the Charge because it was filed within the twenty-day period for filing of exceptions.

ORDER

In view of the foregoing and in order to effectuate the policies of the Public Employee Relations Act, the Board

HEREBY ORDERS AND DIRECTS

that the exceptions filed by Kathleen Townsend are dismissed and the Secretary's February 22, 2017 decision not to issue a complaint be and the same is hereby made absolute and final.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania pursuant to conference call meeting of the Pennsylvania Labor Relations Board, L. Dennis Martire, Chairman, Robert H. Shoop, Jr., Member, and Albert Mezzaroba, Member, this eighteenth day of April, 2017. The Board hereby authorizes the Secretary of the Board, pursuant to 34 Pa. Code 95.81(a), to issue and serve upon the parties hereto the within Order.