

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

TEAMSTERS LOCAL 776 :
 :
 v. : CASE NO. PERA-C-20-81-E
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 COUNTY OF ADAMS :
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**ORDER GRANTING MOTION TO DISMISS
UNFAIR PRACTICE CHARGE AGAINST COUNTY OF ADAMS**

On April 6, 2020, Teamsters Local 776 (Union) filed with the Pennsylvania Labor Relations Board (Board) a charge of unfair practices against the County of Adams (County) alleging that the County violated Section 1201(a)(1) and (3) of the Public Employe Relations Act (Act or PERA). The Union specifically alleged that the County unlawfully terminated Chief Union Steward Susan Ford for engaging in protected concerted activity when she complained to her Executive Director, Kelly Carothers,¹ on behalf of bargaining unit members, about COVID-19 work assignments and office cleaning.

On September 2, 2020, the Secretary of the Board issued a Complaint and Notice of Hearing designating a hearing date of Wednesday, December 9, 2020. On November 23, 2020, the County filed a Motion to Dismiss. During a conference call on December 3, 2020, the parties agreed to cancel the December 9, 2020 hearing and to hold the matter in abeyance until another case, involving York County and the York County Court of Common Pleas, was decided by the Board. The York County matter was appealed to the Commonwealth Court, which issued its decision on April 5, 2024. Honorable Maria Musti Cook v. PLRB, 161 M.D. 2021 (Pa. Cmwlth. 2024). The Cook decision was not appealed. Thus, the County's Motion to Dismiss is ripe for consideration.

When evaluating a pre-hearing motion to dismiss a complaint, the examiner must accept as true all well-pled facts in the specification of charges. Legal conclusions, unjustified inferences, arguments, and opinions are not supportive of dismissal, which is appropriate only when it appears with certainty that the law does not permit recovery under the alleged facts. Metropolitan Regional Council of Carpenters v. Pennsylvania Convention Center Authority; Teamsters Local 107 v. Pennsylvania Convention Center Authority, 46 PPER 89 (PDO, 2015).

In its Motion to Dismiss, the County contends that there is no basis for County liability, as a matter of law, for the discharge of Adams County Court of Common Pleas (Court) employe Susan Ford. The Union alleged that Ms. Ford was its Chief Steward as an employe in one of the Union's 2 bargaining units of Court-appointed employes. The County contends that, under Section 1620 of the County Code, the County Commissioners' power to represent judges in bargaining "shall in no way affect the hiring, discharging and supervising rights and obligations with respect to such employes as may be vested in the

¹ The County's website also shows that Ms. Carothers is the Executive Director of the Court's Domestic Relations Department.

judges or other county officers." 16 P.S. § 1620.² The facts as pled, and the reasonable inferences therefrom, show that the Court terminated Ms. Ford and that the County had no influence or control over Ms. Ford's discharge. The charge, which was filed against the County only, must therefore be dismissed.

Alternatively, even had the Union filed the charge against the Court, the Court's disciplinary action against Ms. Ford would not be reviewable by the Board under Cook, supra, which held that the Board does not have jurisdiction to review a court's discipline of its personnel.

Accordingly, the charge against the County is hereby dismissed, and the complaint is rescinded.

CONCLUSIONS

The hearing examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds as follows:

1. The County is a public employer under PERA.
2. The Union is an employe organization under PERA.
3. The Board has jurisdiction over the parties.
4. The County did not engage in unfair practices in violation of Section 1201(a)(1) or (3) of PERA, as a matter of law, under the facts as pled in the charge, and dismissal of the charge is proper.

ORDER

In view of the foregoing and in order to effectuate the policies of PERA, the hearing examiner:

HEREBY ORDERS AND DIRECTS

That the charge against the County is dismissed, and the complaint against the County is rescinded.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

That in the absence of any exceptions filed with the Board pursuant to 34 Pa. Code § 95.98(a) within twenty days of the date hereof, this order shall be and become final.

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania, this second day of July 2024.

PENNSYLVANIA LABOR RELATIONS BOARD

/S/ JACK E. MARINO

Jack E. Marino, Hearing Examiner

² The County also argues that the CBA preserves the exclusive rights of the judge's over Court employes. However, the CBA was not attached to the charge, and it cannot provide a basis for this decision.