

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

PENNSYLVANIA STATE CORRECTIONS :  
OFFICERS ASSOCIATION :  
 :  
 v. : CASE NO. PERA-C-24-50-E  
 :  
 COMMONWEALTH OF PENNSYLVANIA, :  
 SCI MERCER :

**PROPOSED DECISION AND ORDER**

On March 5, 2024, the Pennsylvania State Corrections Officers Association (Union or Association) filed a charge of unfair practices with the Pennsylvania Labor Relations Board (PLRB or Board) alleging that the Commonwealth of Pennsylvania (Commonwealth or Employer) violated Section 1201(a)(1) and (5) of the Public Employe Relations Act (PERA or Act) when the Commonwealth, at SCI Mercer, failed to comply with a grievance settlement agreement.

On March 21, 2024, the Secretary of the Board issued a complaint and notice of hearing, assigning the charge to conciliation for the purpose of resolving the matters in dispute through mutual agreement of the parties, and designating June 28, 2024, in Harrisburg, as the time and place of hearing.

The hearing was continued by agreement of the parties and held on August 28, 2024, in Harrisburg, at which time the parties were afforded a full opportunity to present testimony, cross-examine witnesses and introduce documentary evidence. At the beginning of the hearing, the parties presented to the Hearing Examiner joint stipulations of fact and waived further proceedings. The joint stipulations were entered into the record as Joint Exhibit 1. The parties chose not to file briefs in this matter.

The Hearing Examiner, based upon all matters of record, makes the following:

**FINDINGS OF FACT**

1. The Commonwealth is a public employer within the meaning of the Act. (Joint Stipulation 1).
2. The Association is an employee organization within the meaning of the Act. (Joint Stipulation 1).
3. The Association is the exclusive bargaining representative of a unit of Corrections Officers 1 (CO1) certified at PERA-R-01-153-E. (Joint Stipulation 3).
4. Sometime in 2022, the Association filed a class action grievance labeled MER 22-105. The parties resolved this grievance on or about January 5, 2022. The resolution of the grievance took the form of a settlement agreement memorialized on a grievance hearing report. (Joint Stipulation 4, Joint Exhibit 1).

5. The settlement agreement states in relevant part:

SCI Mercer will offer a quarterly CO1 volunteer sign up for both Pittsburgh area hospitals and Sharon area hospitals. **Hospital assignments to either will be seniority-based** within permanent shift assignments.

(Joint Exhibit 1) (emphasis added).

6. Megan McIntyre is a CO1 employed by the Commonwealth. (Joint Stipulation 5).

7. McIntyre was on the hospital volunteer list for the fourth quarter of 2023 and the first quarter of 2024. (Joint Stipulation 6).

8. On December 29, 2023, a CO1 with less seniority than McIntyre was assigned to a hospital post. (Joint Stipulation 7).

9. On January 2, 2024, a CO1 with less seniority than McIntyre was assigned to a hospital post. (Joint Stipulation 8).

10. On January 3, 2024, a CO1 with less seniority than McIntyre was assigned to a hospital post. (Joint Stipulation 9).

#### DISCUSSION

The Union alleges the Commonwealth violated the arbitration settlement agreement when on December 29, 2023, January 2, 2024, and January 3, 2024, it assigned shifts to CO1s who did not have seniority over McIntyre.

Where a grievance has been resolved through a settlement, a public employer violates its duty to bargain when it refuses to comply with the grievance settlement agreement. Pennsylvania State Corrections Officers Association v. Commonwealth of Pennsylvania, Department of Corrections, Rockview SCI, 47 PPER 43 (Final Order, 2015). Where there is a settlement agreement, the Board will determine (1) if a meeting of the minds on the settlement actually exists; (2) whether the parties' intent is apparent from the settlement agreement; and (3) whether the party has failed to comply with the agreement's provisions. AFSCME District Council 47 Local 2187 v. City of Philadelphia, 36 PPER 124 (Final Order, 2005). The burden is on the complainant to establish by substantial evidence that the respondent has failed or refused to comply with the terms of the settlement agreement. Rockview SCI, *supra*.

In this matter the facts are not contested and it is clear that the Commonwealth did not comply with the grievance settlement agreement. The grievance settlement agreement states: "Hospital assignments . . . will be seniority-based". The record shows that the Commonwealth abrogated these terms when it made three assignments that did not respect McIntyre's seniority. The Commonwealth is, therefore, not in compliance with the agreement's provisions. The Commonwealth will be ordered to cease and desist. The parties agreed in the joint

stipulations that there were no monetary damages to the bargaining-unit members.

#### **CONCLUSIONS**

The Hearing Examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds:

1. The Commonwealth is a public employer within the meaning of Section 301(1) of PERA.

2. The Association is an employe organization within the meaning of Section 301(3) of PERA.

3. The Board has jurisdiction over the parties hereto.

4. The Commonwealth has committed unfair practices in violation of Section 1201(a)(1) and (5) of PERA.

#### **ORDER**

In view of the foregoing and in order to effectuate the policies of PERA, the Hearing Examiner

#### **HEREBY ORDERS AND DIRECTS**

that the Commonwealth of Pennsylvania shall:

1. Cease and desist from interfering, restraining or coercing employes in the exercise of the rights guaranteed in Article IV of the Act.

2. Cease and desist from refusing to bargain collectively in good faith with an employe representative which is the exclusive representative of employes in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

3. Take the following affirmative action which the Hearing Examiner finds necessary to effectuate the policies of PERA:

(a) Post a copy of this Decision and Order within five (5) days from the effective date hereof in a conspicuous place readily accessible to the bargaining unit employes and have the same remain so posted for a period of ten (10) consecutive days;

(b) Furnish to the Board within twenty (20) days of the date hereof satisfactory evidence of compliance with this Decision and Order by completion and filing of the attached Affidavit of Compliance; and

(c) Serve a copy of the attached Affidavit of Compliance upon the Union.

**IT IS HEREBY FURTHER ORDERED AND DIRECTED**

that in the absence of any exceptions filed pursuant to 34 Pa. Code § 95.98(a) within twenty (20) days of the date hereof, this decision and order shall become and be absolute and final.

**SIGNED, DATED AND MAILED** at Harrisburg, Pennsylvania, this twelfth day of September, 2024.

**PENNSYLVANIA LABOR RELATIONS BOARD**

/s/ Stephen A. Helmerich  
STEPHEN A. HELMERICH, Hearing Examiner

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**AFFIDAVIT OF COMPLIANCE**

The Commonwealth of Pennsylvania hereby certifies that it has ceased and desisted from its violation of Section 1201(a)(1) and (5) of the Public Employe Relations Act; that it complied with the Proposed Decision and Order as directed therein; that it has posted a copy of the Proposed Decision and Order as directed therein; and that it has served an executed copy of this affidavit on the Union at its principal place of business.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

SWORN AND SUBSCRIBED TO before me  
the day and year first aforesaid.

\_\_\_\_\_  
Signature of Notary Public