COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

FOP LODGE 5	:	
	:	
v.	:	Case No. PF-C-24-45-E
	:	
CITY OF PHILADELPHIA	:	

PROPOSED DECISION AND ORDER

On May 9, 2024, the Fraternal Order of Police Lodge 5 (FOP or Union) filed a charge of unfair labor practices with the Pennsylvania Labor Relations Board (Board) against the City of Philadelphia (City or Employer), alleging that the City violated Section 6(1)(a) and (e) of the Pennsylvania Labor Relations Act (PLRA), as read with Act 111, by refusing to comply with an October 11, 2023 arbitration award regarding Police Sergeant Michael Melvin.

On June 10, 2024, the Secretary of the Board issued a Complaint and Notice of Hearing, directing a hearing on August 19, 2024, if necessary. On August 15, 2024, the hearing was continued to September 5, 2024, at the City's request and over the FOP's objection. The hearing ensued on September 5, 2024, at which time the parties were afforded a full opportunity to present testimony, cross-examine witnesses and introduce documentary evidence.[1] The City filed a post-hearing brief in support of its position on May 28, 2025. The FOP filed a post-hearing brief in support of its position on May 29, 2025. The parties requested, and were granted, leave to then file reply briefs, which the Board received on June 23, 2025.

The Hearing Examiner, on the basis of the testimony presented at the hearing and from all other matters and documents of record, makes the following:

FINDINGS OF FACT

1. The City is a public employer and political subdivision under Act 111, as read *in pari materia* with the PLRA. (N.T. 7)

2. The FOP is a labor organization under Act 111, as read *in pari materia* with the PLRA. (N.T. 7)

3. The FOP is the exclusive bargaining representative for a unit of police employes at the City. (Joint Exhibit 1)

4. The FOP and the City were parties to a collective bargaining agreement (CBA) effective 2017 to 2020, which was extended by the parties for an additional year through June 30, 2021. The parties subsequently went to

[1] The hearing was held virtually by agreement of the parties, after which the parties indicated that they both required a second day of hearing to submit additional testimony and evidence. The second day of hearing was scheduled for November 8, 2024. The hearing was subsequently continued to January 3, 2025, and then again to March 17, 2025. On February 19, 2025, the parties agreed that a second day of hearing was no longer necessary, at which point a briefing schedule was issued.

interest arbitration and received an award covering the period of July 1, 2021 through June 30, 2024. (N.T. 28; Joint Exhibit 1, 2; PF-C-21-40-E)

5. Article IX, Section B of the CBA provides, in relevant part, as follows:

> Any vacation leave which is not used in any year may be accumulated; provided, however, that an employee may not have to their [sic] credit more than 560 hours of vacation time at the end of the calendar year.

(Joint Exhibit 1)

6. Article IX, Section D of the CBA provides, in relevant part, as follows:

> Any member of the bargaining unit who leaves the City's service in order to retire under the Municipal Retirement System has the option to receive a lump sum cash payment for the balance of his/her earned and unused vacation leave within thirty (30) days of retirement, payable at their daily rate of pay at the time of retirement or to exhaust this earned and unused vacation leave of retirement.

(Joint Exhibit 1)

7. Section 20.044-1 of the City's Civil Service Regulations, which is entitled "Accumulation of Vacation and Annual Administrative Leave Balances Beyond December 31st of any Calendar Year," provides in relevant part as follows:

> Any uniformed employees of the Police Department and Prosecution Detectives of the District Attorney's Office who, because of the staffing requirements of the department, were unable to use all accrued vacation leave and Annual Administrative Leave and had, on December 31st of any year, an accrued vacation and Annual Administrative Leave balance in excess of five hundred ninety-two (592) hours, will be permitted to use the excess leave until March 31st of the following year. As of March 31st of the following year, each such employee may have to his/her credit a maximum accumulation of five hundred ninety-two (592) hours of vacation and Annual Administrative Leave, in addition to any vacation time accrued between January 1 and March 31 of that same year. Any leave balances in excess of these amounts will be forfeited effective April 1. The effective date of this regulation will be December 31, 2011.

(City Exhibit 1)

8. On July 17, 2019, the City notified Sergeant Michael Melvin that the Police Commissioner ordered him to be suspended for 30 days with intent to dismiss. (N.T. 29; Joint Exhibit 3)

9. On July 19, 2019, the FOP filed a grievance alleging that the City violated the CBA by terminating Sergeant Melvin without just cause. (Joint Exhibit 3)

10. On July 22, 2019, the FOP processed the grievance to binding arbitration. That same day, Sergeant Melvin filed for his service pension before he was formally terminated by the City. His retirement was made effective on July 22, 2019. (N.T. 8; Joint Exhibit 3)

11. The parties litigated the grievance before Arbitrator Robert Gifford, Esquire, who convened hearings on January 31, 2023, and March 21, 2023, and who ultimately issued an award on October 11, 2023, sustaining the grievance in part. (N.T. 8-9, 29; Joint Exhibit 3)

12. Specifically, the October 11, 2023 award provides, in relevant part, as follows:

> The City had just cause to discipline but not to dismiss the Grievant. The Grievant's termination shall be reduced to a 30-day suspension without pay and he shall receive retraining as deemed appropriate by the City. The Grievant shall be reinstated to his position as a police officer and made whole in all other respects.

(N.T. 8-9; Joint Exhibit 3)

13. Sergeant Melvin did not return to work in his career as a police officer for the City after the October 11, 2023 award. Instead, he was reinstated for one day and then retired again. The FOP learned that Melvin had not received his backpay on April 8, 2024. (N.T. 29-30; Joint Exhibit 4)

14. On July 9, 2024, the City issued a check to Sergeant Melvin, purporting to represent the City's backpay obligation under the award. (N.T. 9, 30-32; Union Exhibit 1)

15. FOP Vice President John McGrody testified that he was unable to determine the rate at which Sergeant Melvin had been paid for each year of his termination. He described how the FOP requested distribution sheets from the City, which would have allowed the FOP to verify the rate at which he was paid for each year. But the City did not provide the requested information to the FOP or Sergeant Melvin. (N.T. 32; Union Exhibit 1)

16. Vice President McGrody testified that the FOP has encountered numerous instances, during his time as Vice President, where the City has allegedly paid a police officer at the incorrect rate pursuant to a backpay award. (N.T. 34)

17. On August 4, 2024, the City issued a check to Sergeant Melvin, purporting to represent the City's backpay obligation for Melvin's terminal leave pursuant to the award. The City's Terminal Leave Audit Worksheet shows that the City paid Sergeant Melvin for 111 hours of vacation leave, which was the result of the 560-hour cap minus the 449 hours the City already paid out to him pursuant to his initial retirement in 2019. (N.T. 9, 35-38; Union Exhibit 3)

18. Vice President McGrody testified that the FOP does not agree that Sergeant Melvin would have only accrued 560 hours of vacation leave in the 4.5 years he was out. Instead, McGrody asserted that Melvin would have accrued more than 200 hours per year, which should have resulted in a rough estimate of 800 to 1,000 vacation hours. (N.T. 38-39)

19. Vice President McGrody testified that Sergeant Melvin should also have been paid at the contractual rate that was in effect on the date the Arbitrator issued the Award, which was October 11, 2023. He explained how the City paid Melvin the 449 hours of terminal leave at the rate that was in effect for 2019. (N.T. 39-40)

20. Shannon McNulty holds the position of Budget Officer 2 with the City's police finance unit. She performed both terminal leave audits for Sergeant Melvin for each of his retirement dates. She testified that Melvin had accrued 449 hours of vacation leave when he retired in 2019. She described how the City paid Melvin for those 449 hours during the pay period ending March 8, 2020. She explained that the City paid Melvin at the rate that was in effect at the time of his separation, which was July of 2019. (N.T. 62, 68-70; City Exhibit 1)

21. Budget Officer McNulty testified that, when it came time to pay out Sergeant Melvin's terminal leave as part of the make-whole remedy in the October 11, 2023 Award, she deducted 449 hours from the 560-hour cap to determine that Melvin was entitled to 111 hours of compensation for his vacation time. (N.T. 73-74, 76-77; City Exhibit 1)

22. On cross-examination, Budget Officer McNulty admitted that the value of Sergeant Melvin's vacation time in 2023 was greater than the value in 2019 because the bargaining unit employes have had wage increases. When asked if Melvin accrued 560 hours of vacation leave after his initial separation from the City, she replied that he did not. She explained that, to make an employe whole, the City must act like that employe never separated in the first place. She described performing a terminal leave audit whereby the City must take the number from the previous audit, which Melvin was paid, and calculate how much leave that employe would have earned on a monthly basis. She testified that Melvin was paid the 111 remaining hours at the rate for fiscal year 2024 since the backpay period ran through October 29, 2023. (N.T. 82-86; City Exhibit 1)

23. Gregory Malkowski has been employed as a police officer for the City for over 37 years. He is currently the Commanding Officer of the Police Labor Relations Unit, a position he has held for approximately 18 years. He testified that, in his entire time in the Labor Relations Unit, there has never been a practice of the City paying anyone above the vacation hour cap if their retirement date is altered. He explained that, in issuing the backpay award, the City assumes that the employe would not have taken any vacation, sick, or other leave time, and therefore, the City pays the employe his or her regular wages for the entire backpay period, rather than trying to factor in vacation time. (N.T. 89-92)

DISCUSSION

The FOP has charged the City with violating Section 6(1)(a) and (e) of the PLRA[2] and Act 111 by refusing to comply with the October 11, 2023 arbitration award regarding Police Sergeant Michael Melvin. Specifically, the FOP contends that the City failed to comply with the award because the

[2] Section 6(1) of the PLRA provides that "[i]t shall be an unfair labor practice for an employer: (a) To interfere with, restrain or coerce employes in the exercise of the rights guaranteed in this act...(e) To refuse to bargain collectively with the representatives of his employes, subject to the provisions of section seven (a) of this act." 43 P.S. § 211.6.

City failed to pay the correct amount for the terminal leave accruals as part of the backpay. The FOP takes issue with the City's assertion that the 560-hour cap limits the amount of terminal leave that the bargaining unit employes can receive following their separation from the City. The FOP maintains that there is nothing in the CBA or the Civil Service Regulations, which prohibits the City from paying Sergeant Melvin beyond the 560-hour cap pursuant to a make-whole award. The FOP claims that Melvin would have accrued somewhere between 800 and 1,000 hours of vacation leave for the time he was unlawfully discharged, which he is entitled to consistent with the Board's definition of make-whole remedies. The FOP further submits that the City had an obligation to verify to the FOP that its calculations and payments to Melvin were accurate, which the City failed to do.

The City, on the other hand, argues that the charge should be dismissed because the charge failed to put the City on notice of the FOP's assertion that Melvin was still owed money for his terminal leave beyond what he received from the City's backpay on July 19, 2024 and August 4, 2024. The City also maintains that the charge fails because the FOP did not sustain its burden of proving any unfair labor practices by the City. In particular, the City asserts that it properly paid Melvin for his back wages and terminal leave, consistent with the Board's definition of make-whole remedies. The City also relies on other arbitration awards and Board decisions, which purportedly declined to include beyond the cap payments as part of make-whole relief.

In cases where refusal to comply with an arbitration award is alleged, the Board's inquiry is limited to first determining if an award exists, second if the appeal procedure available to the aggrieved party has been exhausted, and third if the party has failed to comply with the provisions of the arbitrator's decision. <u>PSSU v. Commonwealth of Pennsylvania</u>, 17 PPER ¶ 17154 (Final Order, 1986). Eventual compliance, determined to be untimely, violates the PLRA. <u>Fraternal Order of Police Lodge 5 v. City of Philadelphia</u>, 41 PPER 123 (Proposed Decision and Order, 2010) *citing* <u>Fraternal Order of Police, Lodge 5 v. City of Philadelphia</u>, 38 PPER 72 (Proposed Decision and Order, 2007). The burden of proof is on the charging party to show by substantial and legally credible evidence that the respondent has not complied with the arbitration award. *Id.* citing <u>St. Joseph's Hospital v. PLRB</u>, 323 A.2d 106 (Pa. 1977). The Board may not review the merits of the award or substitute its judgment for that of the arbitrator. *Id.* citing <u>City of Duquesne</u>, 5 PPER 117 (Final Order, 1974). If, upon review of the award as a whole, the Board is unable to discern the intent of the arbitrator and the award is therefore ambiguous, the Board will dismiss an unfair practice charge alleging noncompliance with the award. <u>AFSCME Local 197 v. City of Philadelphia, Office of Housing & Community Development</u>, 24 PPER ¶ 24052 (Final Order, 1993).

The parties do not contest that an award exists or that the award became enforceable on the 31st day following its issuance. Thus, the only question then, is whether the City has failed to comply with the provisions of the arbitrator's decision. The arbitrator's award provides, in relevant part as follows:

> The City had just cause to discipline but not to dismiss the Grievant. The Grievant's termination shall be reduced to a 30-day suspension without pay and he shall receive retraining as deemed appropriate by the City. The Grievant shall be reinstated

to his position as a police officer and made whole in all other respects.

(Joint Exhibit 3). The dispute here essentially boils down to what the proper make-whole remedy should be.

First of all, however, it must be noted that the City did not issue a check purporting to constitute a portion of the make-whole remedy until July 9, 2024, which was approximately 9 months after the October 11, 2023 award. Likewise, the record shows that the City did not issue a check purporting to constitute the City's backpay obligation for Sergeant Melvin's terminal leave until August 4, 2024, which was approximately 10 months after the October 11, 2023 award. Such a delay for each of these payments was clearly an unreasonable time for eventual compliance. The City makes no argument defending or justifying the untimeliness of these payments. In fact, the City has admitted that the delay was unreasonable, as the City's lawyer acknowledged during the hearing that the delay was both "egregious," (N.T. 19), and untimely. (N.T. 58).[3] Thus, even if it is determined that the City had issued the proper make-whole remedy to Melvin on July 9, 2024, and August 4, 2024, the City still committed an unfair labor practice because it did not comply with the award in a reasonable period of time.

As detailed above, the City defends the charge on the grounds that the FOP's specification of charges failed to put the City on notice of the FOP's assertion that Melvin was owed money for his terminal leave beyond the alleged 560-hour cap. However, when the FOP filed the charge on May 9, 2024, alleging a refusal to comply with the October 11, 2023 make-whole award, the City had still not paid Sergeant Melvin anything pursuant to the award. The FOP's specification of charges was clearly sufficient to put the City on notice that it had failed to timely comply with the make-whole award. How this fails to include terminal leave for vacation pay is unclear.

As the Board's hearing examiner discussed in <u>FOP Lodge 5 v. City of Philadelphia</u>, 54 PPER 37 (Proposed Decision and Order, 2022), the terms "backpay" and "make-whole" are clear and unambiguous forms of relief when used in the labor relations context, and are largely synonymous. The examiner explained that the National Labor Relations Board Compliance Manual provides in Section 10536.1 that "[b]ackpay awards are intended to make whole the person who has suffered from a violation for earnings and other compensation lost as a result of that violation." Further, the National Board's Compliance Manual provides in Section 10540.1 that "[g]ross backpay must take into account ***all benefits and forms of compensation that [an employe] would have earned from employment***, had there not been an unlawful action. ***All forms of wages***, including overtime, premiums, tips, bonus payments, and commissions, are to be considered in determining backpay." (Emphasis added). The examiner noted that this Board specifically adopted and approved the use of the National Board's Compliance Manual in <u>Corry Area Education Ass'n v. Corry Area School District</u>, 38 PPER 155 (Final Order,

[3] Indeed, the City's lawyer conceded that Melvin "was not timely paid," and shortly thereafter, remarked "that's an understatement." (N.T. 58). The City nevertheless moved, multiple times during the hearing, for a dismissal of the charge, including in its opening statement. However, the charge cannot be dismissed because the City has unequivocally admitted to an unfair labor practice for failing to issue payment to Sergeant Melvin in a timely fashion. For that reason alone, the motion was repeatedly denied. (N.T. 23, 56-57, 61).

2007), and concluded that the term "backpay," as used in the parties' grievance settlement agreement in that case, unequivocally included overtime earnings the employe had prior to his separation from the City. In Wyoming Borough Police Dept. v. Wyoming Borough, 43 PPER 22 (Final Order, 2011), the Board recognized that longevity increases, out-of-pocket medical expenses, holiday pay, ***accrued leave***, and interest are typical components of make-whole relief. (Emphasis added).

In the same vein, here, the term "make-whole," as used by the arbitrator in the October 11, 2023 award, unequivocally includes the vacation hours that Sergeant Melvin would have accrued during the period of his unlawful discharge. To be sure, the Board has expressly held that accrued leave is a typical component of make-whole relief. The City does not dispute that Melvin would have continued to accrue additional vacation hours during that period had he not been unlawfully terminated or that the accrual of those hours constitutes a benefit or form of compensation, consistent with the examiner's definition of "make-whole" relief set forth directly above. To its credit, the City acknowledged that it at least owed Melvin the balance of his terminal leave up to the 560-hour cap after he retired the second time in 2023. Thus, the City has recognized, at least implicitly, that make-whole relief includes the vacation hours that Melvin would have accrued during the time he was separated from the City. The dispute then is only over the amount of those hours that he was owed. As such, it must be concluded that Melvin's accrued vacation hours were encompassed within the FOP's specification of charges, which specifically delineates that the arbitrator ordered a make-whole remedy.

Nor does it follow that the FOP was required to amend its charge at any point in time after the City issued the payments in July and August of 2024, as alleged by the City. Without question, the alleged failure to pay Melvin for his vacation hours accrued during his separation cannot be said to represent a new cause of action for a different unfair labor practice than that which the FOP originally pled in the charge. In this regard, the City was certainly on notice of the specific unfair labor practice averred in the charge and appeared ready to defend itself at the hearing with witnesses who were prepared to address the issue. As the Board's hearing examiner also noted in FOP Lodge 5 v. City of Philadelphia, 54 PPER 37 (Proposed Decision and Order, 2022), the City should not be heard to complain when it withholds payments which are obviously due pursuant to make-whole relief for close to a year, if the charging party then realizes after the untimely payment that there are potentially still outstanding amounts owed and wishes to proceed with a hearing, especially when the disputed amounts are clearly encompassed within the original charge. To further illustrate the fallacy of the City's argument, it is worth considering that, taken to its logical conclusion, the FOP would also somehow be precluded from enforcing the award by filing a charge with the Board for a potential failure to pay out-of-pocket medical expenses simply because its specification of charges does not include those specific magic words. As detailed above, however, the payment of out-of-pocket medical expenses has long been held to be part of make-whole relief.

The City's reliance on an arbitration case regarding another police officer is similarly unavailing. The City claims that the FOP was on notice of the City's position regarding the 560-hour cap, in light of the City's defense in that case. (*See* City Exhibit 5).[4] However, that matter was

[4] In that case, the parties returned to the arbitrator for a determination of whether the City's implementation of the arbitrator's December 30, 2022 award

entirely separate from the instant case, involved a different police officer, and did not involve an unfair labor practice charge before the Board. Indeed, even if the FOP had not disputed the City's position in that case, it would still be of no moment here, as the Board has long held that a union does not forever waive its right to file a cause of action by its acquiescence to an employer's previous unilateral action on a mandatory subject, such as a terminal leave payout. Temple University Health System, 41 PPER 3 (Final Order, 2010). Consequently, even if the FOP had permitted the City to apply the 560-hour cap in a previous matter, without filing a charge or challenging the action, the FOP is not somehow precluded from doing so here, especially on due process grounds. The City clearly had adequate notice of the specific unfair labor practice alleged in the charge, which was sufficient to present a defense at the hearing.

Turning to the actual underlying merits of the charge, the parties dispute the City's calculation of the terminal leave payout, which Sergeant Melvin received on August 4, 2024. In Wyoming Borough Police Dept. v. Wyoming Borough, 43 PPER 22 (Final Order, 2011), the Board held that whether an employe receives a payout for holiday and accrued leave is in accordance with the applicable collective bargaining agreement. Thus, an employe who would not otherwise be paid for unused leave under the applicable CBA upon resignation, would not be entitled to such a payout for leave under the Board's remedial make-whole relief. *Id.* More recently, in FOP Lodge 5 v. City of Philadelphia, 56 PPER 56 (Proposed Decision and Order, 2025), which was a dispute between the same parties involving the same 560-hour cap, albeit with regard to a different police officer, Hearing Examiner Marino concluded that the police officer in that case was not entitled to payment for accrued vacation time during the backpay period over the cap because such a payment was not authorized by the CBA. In that case, Hearing Examiner Marino correctly recognized that, if the police officer at issue had not been terminated in 2019, he would have continued to work and accrue vacation time without a terminal leave payout until his subsequent retirement in 2022. Thus, the make-whole remedy ordered by the arbitrator did not include a second terminal leave payout beyond the 560-hour cap. *Id.*

The same result must obtain here, where the parties' CBA also provides for a one-time payout of accrued vacation leave up to 560 hours, and where the bargaining unit employes forfeit any hours over that cap if they are not used by March 31, according to the Civil Service Regulations. Commander Malkowski credibly testified that this has been the long-term practice between the parties. If Sergeant Melvin had never retired in 2019 in lieu of termination by the City, then he would have continued working for the entire backpay period and accruing vacation leave. He also never would have received his terminal leave payment from the City for 449 hours in 2020. Therefore, he would have only received a terminal leave payment once upon his second retirement in 2023 for the full 560 hours. As a result, it must be concluded that the City did not commit an unfair labor practice for paying Melvin 111 hours at that point, which represents the 560-hour cap minus the 449 hours the City had already paid out. The record shows that the City paid Melvin backpay as if he were earning his regular wages during the entire

---

satisfied the arbitrator's make-whole remedy. (City Exhibit 5). The City's argument that the FOP should have also returned to the Arbitrator in this case must be rejected. It is well settled that the Board is not somehow ousted of its jurisdiction simply because of the existence of the contractual grievance procedure. Pennsylvania State Troopers Ass'n v. PLRB, 761 A.2d 645 (Pa. Cmwlth. 2000).

backpay period. Thus, it would have been a windfall for Melvin to receive his vacation time in the form of a terminal leave payout beyond the 560-hour cap, where the CBA contains a "use it or lose it" clause and does not permit employes to be paid for any unused vacation days at the end of the year. *Compare* Falls Twp. Police Ass'n v. Falls Twp., 56 PPER 51 (Proposed Decision and Order, 2025)(make-whole remedy includes the full value of all accrued leave where the contract is devoid of a "use it or lose it" clause, such that the employes were not prevented from preserving the value of their accrued leave from year to year, and the contract permits employes to be paid for any unused vacation days at the end of the year if the employe was unable to take those vacation days). Accordingly, the City will not be directed to pay Sergeant Melvin for any additional vacation hours beyond the 560 hours, which he has already received.

The FOP nevertheless has sustained its burden of proving that the City violated the Act by failing to pay Melvin the correct rate for his terminal leave. Both FOP Vice President McGrody and City Budget Officer McNulty testified that the City paid Melvin his first terminal leave payout following his retirement in 2019 at the 2019 contractual rate. But the record shows that the bargaining unit employes received wage increases between 2019 and 2023. As indicated above, if Melvin had not been terminated in 2019, he would have only received one payment for his full terminal leave of 560 hours after his second retirement in 2023, which McNulty testified was paid at the fiscal year 2024 rate. The record, however, shows that the City only paid Melvin 111 hours at the fiscal year 2024 rate. The CBA expressly provides that bargaining unit employes, who retire under the Municipal Retirement System, are entitled to a lump sum cash payment for the balance of their earned and unused vacation leave payable at their daily rate of pay at the time of retirement. (*See* Joint Exhibit 1, Article IX, Section D). As such, the City will be directed to pay Melvin additional money for the difference between the 449 hours, which were paid at the 2019 rate, and what it should have paid Melvin for those 449 hours at the fiscal year 2024 rate, in addition to the six percent interest, which the City agreed to pay on the backpay for the period of February 7, 2024 through July 19, 2024. (N.T. 9).

Finally, the FOP argues that the City further violated the PLRA and Act 111 by refusing to verify to the FOP that its calculations and payments to Melvin were accurate. FOP Vice President McGrody testified that he was unable to determine the rate at which Sergeant Melvin had been paid for each year of his termination. McGrody described how the FOP requested distribution sheets from the City, which would have allowed the FOP to verify the rate at which he was paid for each year. But the City did not provide the requested information to the FOP or Sergeant Melvin. Nor did the City eventually provide that information to the FOP during the hearing. While McNulty testified regarding the rates at which the City issued payment for both of Melvin's terminal leave checks, the record is devoid of any evidence regarding the rates at which the City paid Melvin for his larger backpay award on July 9, 2024, which was presumably for the wages he would have earned across multiple years of the discharge period.

It is well settled that a public employer's duty to bargain includes an inherent obligation to verify its backpay calculations arising from the adjustment of grievances and the grievance arbitration process to the employe representative, so that the employe representative can confirm that the calculations are accurate. PSCOA v. Commonwealth of Pennsylvania, Dept. of Corrections (Greensburg SCI), 48 PPER 36 (Proposed Decision and Order, 2016), 48 PPER 87 (Final Order, 2017). The record here clearly shows that the City has failed to verify the rates at which Melvin was paid pursuant to the July 9, 2024 backpay award, despite the FOP's requests. Accordingly, it must be concluded that the City has also committed unfair labor practices for this reason, and as a result, the City will be directed to verify those calculations to the FOP.

CONCLUSIONS

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

1. The City is a public employer and political subdivision under Act 111 as read *in pari materia* with the PLRA.

2. The FOP is a labor organization under Act 111 as read *in pari materia* with the PLRA.

3. The Board has jurisdiction over the parties hereto.

4. The City has committed unfair labor practices in violation of Section 6(1)(a) and (e) of the PLRA.

ORDER

In view of the foregoing and in order to effectuate the policies of the PLRA and Act 111, the examiner

HEREBY ORDERS AND DIRECTS

that the City shall

1. Cease and desist from interfering with, restraining or coercing employes in the exercise of the rights guaranteed in the PLRA and Act 111;

2. Cease and desist from refusing to bargain with the representatives of its employes;

3. Take the following affirmative action which the examiner finds necessary to effectuate the policies of the PLRA and Act 111:

(a) Immediately comply with the October 11, 2023 arbitration award by tendering full backpay to Sergeant Melvin for the difference between the 449 hours of vacation leave, which were paid at the 2019 rate, and what it should have paid Melvin for those 449 hours of vacation leave, consistent with his actual retirement date in 2023, together with six (6%) percent per annum interest on all the backpay for the period of February 7, 2024 through July 19, 2024, along with all other benefits or emoluments of employment he was entitled to pursuant to the arbitration award, including but not limited to any out of pocket medical expenses and pension contributions;

(b) Immediately provide the FOP with requested information regarding methods and rates for all payment calculations pursuant to its collective bargaining obligation under the arbitration award.

(c) 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;

(d) 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

(e) 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 with the Board pursuant to 34 Pa. Code § 95.98(a) within twenty days of the date hereof, this decision and order shall be final.

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania, this first day of October, 2025.

PENNSYLVANIA LABOR RELATIONS BOARD

/s/ John Pozniak
John Pozniak, Hearing Examiner

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

FOP LODGE 5	:	
	:	
v.	:	Case No. PF-C-24-45-E
	:	
CITY OF PHILADELPHIA	:	

AFFIDAVIT OF COMPLIANCE

The City hereby certifies that it has ceased and desisted from its violation of Section 6(1)(a) and (e) of the Pennsylvania Labor Relations Act; that it has immediately complied with the October 11, 2023 arbitration award by tendering full backpay to Sergeant Melvin for the difference between the 449 hours of vacation leave, which were paid at the 2019 rate, and what it should have paid Melvin for those 449 hours of vacation leave, consistent with his actual retirement date in 2023, together with six (6%) percent per annum interest for the period of February 7, 2024 through July 19, 2024, along with all other benefits or emoluments of employment he was entitled to pursuant to the arbitration award, including but not limited to any out of pocket medical expenses and pension contributions; that it has immediately provided the FOP with requested information regarding methods and rates for all payment calculations pursuant to its collective bargaining obligation under the arbitration award; 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/Date

____
Title

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

____
Signature of Notary Public