

**STATE OF MICHIGAN  
EMPLOYMENT RELATIONS COMMISSION  
LABOR RELATIONS DIVISION**

In the Matter of:

DETROIT BOARD OF EDUCATION,  
Respondent-Public Employer,

Case Nos. C99 B-26  
C99 B-27

-and-

JOSEPH ADAMS, JR.,  
An Individual Charging Party.

APPEARANCES:

Gordon Anderson, Esq., for Respondent

Joseph Adams, Jr. *in pro per*

**DECISION AND ORDER**

On May 26, 1999, Administrative Law Judge Roy L. Roulhac issued his Decision and Recommended Order in the above matter finding that Respondent did not violate Section 10 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, and recommending that the Commission dismiss the charges and complaint.

The Decision and Recommended Order of the Administrative Law Judge was served on the interested parties in accord with Section 16 of the Act.

The parties have had an opportunity to review the Decision and Recommended Order for a period of at least 20 days from the date of service and no exceptions have been filed by any of the parties.

**ORDER**

Pursuant to Section 16 of the Act, the Commission adopts the recommended order of the Administrative Law Judge as its final order.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Maris Stella Swift, Commission Chair

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Harry W. Bishop, Commission Member

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C. Barry Ott, Commission Member

Date: \_\_\_\_\_

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APPEARANCES:

For Respondent:

Gordon Anderson, Esq.

For Charging Party:

Joseph Adams, Jr.

DECISION AND RECOMMENDED ORDER  
OF  
ADMINISTRATIVE LAW JUDGE

Pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 *et seq.*, MSA 17.455 *et seq.*, this case was heard in Detroit, Michigan on April 21, 1999, by Administrative Law Judge Roy L. Roulhac for the Michigan Employment Relations Commission (MERC). The proceedings were based upon a February 5, 1999, unfair labor practice charge filed by the Charging Party, Joseph Adams, Jr. Based upon the record, I make the following findings of fact and conclusions of law, and issue a recommended order pursuant to Section 16(b) of PERA:

The Unfair Labor Practice Charges:

The charge in Case No. C99 B-26 reads:

The employer failed to answer a grievance regarding H. Williams being improperly promoted. This act by the employer selectively disregard the agreement between the union and management. The employer improperly promoted H. William and failed to answer a grievance regarding this promotion.

The charge in Case No. C99 B-27 reads:

Teamster Local steward Joseph Adams Jr has filed many grievances in written form to the immediate supervisor. The supervisor(s) failed to investigate or answer the grievances. Since the employer has taken the position not to

answer grievances, this is tantamount to granting all grievances by the employer. The written grievances submitted at step #2 but were not answer were regarding, pay, wages, hours, and other conditions of employment. [sic]

Finding of Facts and Conclusions of Law:

At the hearing, Charging Party was directed to show cause why its charges should not be dismissed since the duty to bargain under PERA runs between the employer and the exclusive bargaining representative.<sup>1</sup> Charging Party acknowledged that: (1) Teamster Local 214 is the exclusive bargaining agent for mechanics employed at the westside terminal; (2) he is not the president of Local 214 and, (3) he has not been authorized by Local 214 to file unfair labor practice charges on its behalf. Rather, Charging Party claims since the Employer has not responded to his grievances, he has to go to another source.

The Commission has repeatedly held that an individual may not file a charge which asserts that an employer has violated its duty to bargain in good faith. See *Kent County Education Association and Rockford Education Support Personnel Association*, 1994 MERC Lab Op 110 (dismissed as moot, Court of Appeals, Dkt No. 173032, 5/5/1995), and cases cited therein. The duty to process grievances runs between the bargaining agent and the employer and not between the employee and the employer. *City of Detroit (Wastewater Plant)*, 1994 MERC Lab Op 884 *Coldwater Community Schools*, 1993 MERC Lab Op 94. Although a union may decide not to process a grievance, this decision does not mean that an individual may then undertake to do so absent an express provision in the collective bargaining agreement.

Based on the above discussion, it is recommended that the Commission issue the recommended order set forth below:

Recommended Order

The unfair labor practice charges are hereby dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Roy L. Roulhac  
Administrative Law Judge

Dated: \_\_\_\_\_

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<sup>1</sup>Section 10(1)(e) of PERA makes it unlawful for a public employer to refuse to bargain collectively with the representative of its public employees. Section 15(1) also states that a public employer shall bargain collectively with the representatives of its employees.