

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

In the Matter of:

MICHIGAN EDUCATION ASSOCIATION,
Respondent-Labor Organization,

Case No. CU99 A-2

-and-

SABRINA MORGAN SMITH,
An Individual Charging Party.

APPEARANCES:

Amberg, McNenly, Firestone, & Lee, P.C., by Michael K. Lee, Esq., for Respondent

Sabrina Morgan Smith-Armstrong, In Pro Per

DECISION AND ORDER

On October 27, 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

Maris Stella Swift, Commission Chair

Harry W. Bishop, Commission Member

C. Barry Ott, Commission Member

Date: _____

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APPEARANCES:

For Labor Organization:

Amberg, McNenly, Firestone & Lee, P.C.
By Michael K. Lee, Esq.

For Charging Party:

Sabrina Morgan Smith-Armstrong

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(10) *et seq.*, this case was heard in Detroit, Michigan on May 17, 1999, by Administrative Law Judge Roy L. Roulhac for the Michigan Employment Relations Commission (MERC). The proceeding was based upon an unfair labor practice charge filed by Sabrina Morgan Smith (now Armstrong) against the Michigan Education Association on January 3, 1999. Based upon the record and post-hearing briefs filed by July 1, 1999, 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 Charge:

Charging Party's January 3, 1999 charge asserted that Respondent Michigan Education Association wrongfully failed to file a grievance on her behalf. On February 8, Charging Party was directed to respond to Respondent's Motion for a Bill of Particulars. Charging Party filed a response on February 17. Thereafter, Respondent filed a Motion for Summary Disposition. Charging Party was directed to show cause why the Motion should not be dismissed or to request a hearing on the Motion. The hearing was held on May 17, 1999.

Finding of Facts:

Charging Party, a member of Respondent's clerical bargaining unit, has been employed by the

Beecher Schools since 1986. Respondent and the School District are parties to a collective bargaining agreement. Since August 1998, Charging Party's daily assignment at Beecher High School has required her to work 4 hours as athletic secretary and 3.63 hours as an attendance secretary.

In December 1998, Charging Party asked the local Union president to file a grievance on her behalf. She claimed that she did not have time during the day to complete tasks associated with her split assignments and wanted each position to be restored to full-time. According to Charging Party, the Employer violated a contract provision which required the Employer to make work assignments which can reasonably be completed within the standard 36 1/4 work week.

On January 25, 1999, Respondent filed a group grievance. Among other things, Respondent claimed that several positions had been "eroded in terms of being reduced to half-time positions and not allowing the individual the sufficient amount of hours to perform the necessary job assignments." Charging Party's attendance secretary position was among those specifically mentioned. Respondent requested that the Employer "reinstate [the split positions] to full time." The outcome of the grievance is not disclosed on the record.

Conclusions of Law:

To establish a violation of the duty of fair representation, the record must demonstrate that the Union's conduct toward the bargaining unit member was arbitrary, discriminatory, or in bad faith. *Vaca v Sipes*, 386 U.S. 171 (1967). "Bad faith" implies an intentional act or omission undertaken dishonestly or fraudulently. *Goolsby v City of Detroit*, 419 Mich 651, 679 (1984). Charging Party claimed in her charge that Respondent violated its duty of fair representation because it failed to file a grievance on her behalf. In her post-hearing brief, she argued that the group grievance which Respondent filed did not include her attendance secretary position.

Charging Party's charge has no merit and requires little comment. Contrary to her assertion, Respondent filed a grievance on her behalf. Although the group grievance only mentioned one of her assignments, it requested that all split positions be restored to full time. Charging Party has failed to show that Respondent's conduct was arbitrary, discriminatory, or in bad faith. I therefore recommend that the Commission issue the following order:

Recommended Order

The unfair labor practice charge is hereby dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Roy L. Roulhac
Administrative Law Judge

Dated: _____