

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of:

DETROIT BOARD OF EDUCATION,
Respondent-Public Employer in Case No. C99 G-135,

-and-

TEAMSTERS LOCAL 214,
Respondent-Labor Organization in Case No. CU99 G-35,

-and-

ALFRED H. BENAVIDES,
An Individual Charging Party.

APPEARANCES:

Gordon J. Anderson, Esq., for the Public Employer

Joseph Valenti, Jr., for the Labor Organization

Alfred H. Benavides, In Pro Per

DECISION AND ORDER

On May 16, 2000, Administrative Law Judge Roy 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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DECISION AND RECOMMENDED ORDER
ON
MOTION TO DISMISS

On July 29, 1999, Charging Party Alfred H. Benavides filed unfair labor practice charges against Respondents. The charge against Respondent Detroit Board of Education reads:

9-96 to 6-97 wasn't paid in a timely or proper manner. Was told by principal Paul K. Gray that pay for program was time and a half. Due to length of time of violation adjustments should be made plus interest. Several attempts have been made to correct the situation, with negative results.

In his charge against Respondent Teamsters Local 214, Charging Party claims the union representative did not fully represent members for recovery of pay.

On September 9, 1999, Respondent Detroit Board of Education filed an answer and a motion to dismiss. It asserted that the allegations set forth in the charge did not establish a violation of the Public

Employment Relations Act (PERA) and the events described in the charge occurred in 1996 and 1997, more than six months prior to the July 29, 1999 charge. On September 13, 1999, Charging Party was granted 10 days to respond to the motion to dismiss. Charging Party did not file a response.

Discussion and Conclusions of Law:

The six-month limitation period contained in Section 16(a) for filing unfair labor practice charges under the Public Employment Relations Act, MCL 423.216 (a), MSA 17.455(16)(a), is jurisdictional and may not be waived. *Walkerville Rural Comm Schools*, 1994 MERC Lab Op 582. A motion for summary dismissal may appropriately be granted where allegations are based upon events which occurred more than six months prior to the charge. *Shiawasee County Road Comm'n*, 1978 MERC Lab Op 1182. Here the events complained of by Charging Party occurred in 1996 and 1997. However, the charges were not filed until July 1999, more than two years after the alleged violations. Moreover, the charge does not state a claim for which relief can be granted under PERA.

I recommend that the Commission issue the order set forth below:

Order Dismissing Charges

It is hereby ordered that the above unfair labor practice charges be dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Roy L. Roulhac
Administrative Law Judge

Dated: _____