

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

In the Matter of:

DETROIT POLICE OFFICERS ASSOCIATION,
Respondent-Labor Organization,

Case No. CU99 C-9

-and-

REGINALD CRAWFORD,
An Individual Charging Party.

APPEARANCES:

Gregory, Moore, Jeakle, Heinen, Ellison, Brooks & Lane, P.C., by William G. Schimmel, Esq.

Reginald Crawford, In Pro Per

DECISION AND ORDER

On April 7, 2000, 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 Respondent: Gregory, Moore, Jeakle, Heinen, Ellison, Brooks & Lane, P.C.
By William G. Schimmel, Esq.

For Charging Party: Reginald Crawford, In Pro Per

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 and 423.216; MSA 17.455(10) and 17.455(16), this case was heard in Detroit, Michigan August 3, 1999, by Administrative Law Judge Roy L. Roulhac. Based upon the record and post-hearing briefs filed by October 22, 1999, I make the following findings of fact, conclusions of law, and issue the recommended order set forth below:

The Charge:

The March 22, 1999, charge filed by Reginald Crawford on behalf of himself and Richard Newton, Jerome Jenkins, Gene Belk, and Joan Merrieweather alleges that the Detroit Police Officers Association (DPOA) maintained an improper relationship with management and undermined confidence in union/management relations. Specifically, it is asserted that (1) Union steward Lucian Harbar filed a grievance alleging that Thomas Harvey's seniority rights were violated although at least three other officers had more seniority than Harvey; (2) although most grievance are rarely posted, the Union posted and highlighted (in pink) Merrieweather's grievance denial; and (3) the Harbar reported to management that unit members were smoking in designated areas.

Findings of Fact:

Respondent DPOA is a labor organization which represents police officers below the rank of investigator employed by the City of Detroit. Charging Party Reginald Crawford and the above named

officers are members of the DPOA employed in the aviation section. The Union and the City of Detroit are parties to a collective bargaining agreement which contains a grievance procedure ending in binding arbitration. Article 10, Section (C)(d) of the 1992 to 1998 agreement provides that requests for assignment-related training will be granted by seniority.

In late 1998, the Police Department began training officers to become licensed as helicopter pilots in inverse seniority. The Union drafted a grievance challenging the use of inverse seniority and listed the aggrieved party as the "Aviation Policy." Within the body of the grievance the Association noted that police Thomas Harvey, the most senior officer in line for training, had been removed from the list and replaced by Charles Richey, the least senior officer. The Union requested that the new policy be rescinded; any officer denied training as result of the new policy be given immediate training; and that affected officers be made whole. The grievance was informally resolved when the Union was assured that aviation section pilots would be trained in the order of seniority.

In January 1999, the Union posted a copy of the January 5, 1999, DPOA's executive board meetings minutes on its bulletin board. A portion of the minutes dealing with the Commission's dismissal of a duty of fair representation charge filed by Joan Merrieweather against the DPOA, Case No. CU98 C-9, was highlighted with a pink marker. At some undisclosed time, Merrieweather and Jenkins were told by Sergeant Monty not to smoke in the hangar designated smoking area.

Conclusions of Law:

Charging Party claims that the Union violated its duty of fair representation because the Union steward did not approach Jenkins and other officers with more seniority than Harvey about filing a grievance about assigning officers to pilot training in inverse seniority. Charging Party also alleges that by highlighting, in pink, the portion of the board of directors minutes pertaining to Merrieweather, the Union was engaged in harassment, rather than representation, of Merrieweather. Finally, according to Charging Party, the steward's complaints to management about smoking in designated smoking areas established an improper relationship and collusion with management.

The claims raised by Charging Party require little comment. None remotely raises an issue of a breach of the Union's fair representation duty. A union breaches its duty of fair representation when its conduct toward a member is arbitrary, discriminatory, or in bad faith. *Vaca v Sipes*, 386 US 71 (1967); *Goolsby v City of Detroit*, 419 Mich 651, 661 (1984). The Union's decision to challenge the Department's use of inverse seniority without mentioning the names of all officers who were adversely affected does not remotely establish a violation of its duty to represent its members. Charging Party has failed to show how posting and highlighting minutes or complaints about smoking in designated smoking areas constitute arbitrary, discriminatory, or bad faith. Moreover, no evidence was presented to demonstrate that these matters had an impact on the employees' employment status or terms. *Organization of classified Custodians*, 1996 MERC Lab Op 181; *DPOA*, 1999 MERC Lab Op 227.¹

¹At the hearing, Charging Party also complained that the Union violated its duty of fair representation by referring to him and other officers as "cowboys" and refused to file grievances about known unsafe work conditions and violation of their uniform code. Since these matters were not included in the charge, they are not addressed.

Based on the above discussion, I find the Union did not violate its duty of fair representation and recommend that the Commission issue the order set forth below:

Order

It is hereby ordered that the charge be dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Roy L. Roulhac
Administrative Law Judge

Dated: _____