

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

In the Matter of:

DETROIT PUBLIC SCHOOLS,
Respondent-Public Employer,

-and-

Case No. C01 H-159

WILLIAM T. SHEETS,
Individual Charging Party

_____ /

APPEARANCES:

Gordon Anderson, Esq., for the Public Employer

William T. Sheets, In pro per

DECISION AND ORDER

On August 7, 2002, Administrative Law Judge Nora Lynch issued her Decision and Recommended Order in the above matter finding that Respondent did not violate Section 10 of the Public Employment Relations Act, 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

DATED:

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Gordon Anderson, Esq., for the Public Employer

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DECISION AND RECOMMENDED ORDER
OF
ADMINISTRATIVE LAW JUDGE

Pursuant to the provisions of Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210, MSA 17.455(10), this matter came on for hearing at Detroit, Michigan, on December 19, 2001, before Nora Lynch, Administrative Law Judge for the Michigan Employment Relations Commission. The proceedings were based upon unfair labor practice charges filed on August 8, 2001, by Individual Charging Party William T. Sheets, alleging that the Detroit Public Schools had violated Section 10 of PERA. Based upon the record, including a brief filed by the Charging Party on February 4, 2002, the undersigned makes the following findings of fact and conclusions of law, and issues the following recommended order pursuant to Section 16(b) of PERA:

The Charge:

The charge reads as follows:

I was asked by DFT to testify at a Union hearing in Feb. 2001. I testified about being written up by Acting Spec. Ed. Dept. Head Y. Copeland who as a DFT member may not write up a fellow DFT member. I was informed by DFT building rep Chinedu that the

principal, Dr. S. Harris, stated at an administration meeting that he was going to get rid of “Sheets & Chinedu.” I received 3 memos from Dr. Harris in March 2001 & have received no further communications. The last memo ended my employment after nine years at Northern H.S.

Facts:

William Sheets has taught at the Detroit Public Schools since 1966, primarily as an ESRP (emergency substitute in a regular position). He has been assigned to several different subject areas, including biology, science, mathematics, and special education. For the last nine years, Sheets has taught at Northern High School. Sheets is not a certified teacher.

During the 2000-2001 school year, Sheets was assigned to special education programs which involved students with learning and emotional problems. There had been several assaults on teachers in these programs. According to Sheets, he was asked by Detroit Federation of Teachers (DFT) representative Chinedu to write a summary of a particular incident and attend a meeting to be held with management on February 2, 2001. The meeting was attended by Sheets, another special education teacher, Union representatives, and the Principal, Dr. Harris. At that meeting, Sheets read the following statement:

To Whom It May Concern:

I was written up by my ‘acting’ Dept. Head – Ms. Y. Copeland concerning “leaving my class unattended.” She attempted to make this an issue when she saw I left one student in a room for several moments while I made copies. She was left in a locked room and informed not to let anyone else enter for any reason. While I was being asked to cover 2 separate classes during 5th hour, for approximately one month, I kept some students in a room next door. Mrs. Copeland did not witness this incident herself but was informed by another teacher. Ms. Copeland is a DFT member and as such cannot write up another DFT member or assign extra classes to a DFT member. We were informed of these facts at a meeting with Union Rep Chinedu, myself, Ms. Copeland, and Mr. Gear, AP over ATIP.

According to Sheets, a few days after that meeting, Chinedu approached him and told him that Dr. Harris stated at a cabinet meeting that he was going to “get rid of Sheets and Chinedu.”

On March 6, 2001, Dr. Harris sent the following memo entitled “Release of ESRP Assignment” to Sheets:

Effective at the end of the day of Wednesday, March 7, 2001, you will be released from your ESRP Assignment in the Special Education Department. I will receive a certified teacher to fill the vacancy.

Thanks for your service and support. As of Thursday, March 8, 2001, you will return to your RES [regular emergency substitute] assignment.

Harris sent another memo to Sheets on March 9, 2001, informing him that if his services were needed at Northern High School he would be notified at home by telephone. Sheets wrote a grievance regarding his testimony at the meeting and subsequent replacement by a contract teacher which he submitted to the Union in May. In this grievance he also complained that legitimate concerns over teachers being assaulted were not being addressed by administration. The Union informed Sheets that there was no contractual basis for the grievance and did not pursue it further. Sheets acknowledged at the hearing that under the DFT contract, an ESRP can legitimately be removed or bumped by a contract certified teacher. Chinedu continues to teach at Northern.

Sheets testified that he did not contact anyone in school administration between March and the end of the school year about another assignment because the memo indicated that they were to call him. In November of 2001, Sheets went to Northern High School to get documents in preparation for the unfair labor practice hearing. At that time Dr. Harris approached him and asked if he would come back to work there. Harris told him that there was a new LLI (limited license instructor) status and that if Sheets could achieve that status, Harris would find a way to return him to employment. LLI status is given to graduates without a teaching background who are working towards certification. Sheets did not pursue this further.

Discussion and Conclusions:

The Charging Party contends that he was discriminated against by the Employer and removed from his teaching position due to his testimony for the DFT at the February 2001 meeting. The Employer maintains that Sheets was removed from his ESRP position when a certified contract teacher was secured, pursuant to the contract between the District and the DFT.

As reflected in his testimony and in the post-hearing brief filed by the Charging Party, Sheets was deeply concerned about the special education program and the treatment of the special education teachers and spoke regarding a particular incident at the February meeting. Although he was released from his assignment approximately a month later, there is no credible evidence that this action was taken because he had related his experiences at the meeting with Employer and Union representatives in February. Sheets acknowledges that under the DFT contract, a certified teacher could legitimately replace him. The statement attributed to Harris, that he intended to “get rid of Chinedu and Sheets” does not support a finding of discrimination. Not only is it hearsay, it is impossible to determine in what context the alleged remark was made; there is no indication that it was connected to the February meeting or any other concerted activity by

Sheets. The fact that Chinedu continues to work for the District also makes the comment unlikely. Furthermore, the Employer remains willing to return Sheets to employment if he achieves LLI status.

Based on the above discussion, I find that the Charging Party has not met his burden of proof that the motivation behind his release from his ESRP assignment was based on the exercise of rights protected by PERA. It is therefore recommended that the Commission issue the order set forth below:

RECOMMENDED ORDER

It is hereby ordered that the charge be dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Nora Lynch
Administrative Law Judge

DATED: _____

