

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

In the Matter of:

CITY OF MARINE CITY (POLICE DEPT.),
Public Employer-Respondent

Case No. C02 D-097

-and-

CARRIE M. VANSLAMBROUCK,
Individual Charging Party.

APPEARANCES:

Plunkett & Cooney, P.C., by Larry W. Barkoff, Esq., for Respondent

Carrie M. VanSlambrouck, in pro per

DECISION AND ORDER

On June 11, 2002, Administrative Law Judge Julia C. Stern issued her Decision and Recommended Order in the above matter finding that Respondent has not engaged in and was not engaging in certain unfair labor practices, and recommending that the Commission dismiss the charges and complaint as being without merit.

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: _____

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

In the Matter of:

CITY OF MARINE CITY (POLICE DEPT.),
Public Employer-Respondent

Case No. C02 D-097

-and-

CARRIE M. VANSLAMBROUCK,
Individual Charging Party

APPEARANCES:

Plunkett & Cooney, P.C., by Larry W. Barkoff, Esq., for Respondent

Carrie M. VanSlambrouck, in pro per

**DECISION AND RECOMMENDED ORDER
OF ADMINISTRATIVE LAW JUDGE
ON MOTION TO DISMISS**

On April 24, 2002, Carrie M. VanSlambrouck, a police officer, filed the above charges against her employer, the City of Marine City. VanSlambrouck alleged that on or about March 18, 2002, Respondent violated Section 10(1)(a) of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210, when its police chief ordered her to attend an investigatory meeting concerning a citizen complaint and then forced her to sign a statement under threat of discipline. VanSlambrouck asserted that even though her union steward was present in the building, the chief did not ask her if she wanted a union representative in the meeting,

On May 20, 2002, Respondent filed an answer to the charge and a motion for summary disposition pursuant to R 423.165. Respondent asserts that the charges failed to state a claim under PERA. Respondent asserts, first, that VanSlambrouck lacks standing to bring this charge because, subsequent to this incident, Respondent and VanSlambrouck's bargaining agent agreed to a set of procedures outlining the rights of employees to union representation at investigatory interviews. Respondent also asserts that VanSlambrouck failed to request that a union representative be present at her March 18 interview. On May 22, I ordered VanSlambrouck to show cause why her charge should not be dismissed based on Respondent's second argument.

VanSlambrouck filed her response to Respondent's motion on June 3, 2002. VanSlambrouck asserts that Respondent has not implemented a policy protecting employees' rights to union representation; she also takes issue with other statements contained in Respondent's answer and motion. VanSlambrouck does not dispute, however, that she did not specifically ask for a union representative at her March 18 meeting. VanSlambrouck does not request oral argument on the motion.

Based on the facts as set forth in VanSlambrouck's pleadings, I make the following conclusion of law and recommend that the Commission issue the following order.

In *NLRB v Weingarten, Inc.*, 420 US 251 (1975), the Supreme Court affirmed the National Labor Relations Board (NLRB) in holding that an employer violates the rights of an individual employee under the Labor Management Relations Act (LMRA), 29 USC § 150 et seq., by refusing that employee's request for union representation at an investigatory interview when the employee reasonably believes that the interview may lead to discipline. In *Univ. of Michigan*, 1977 MERC Lab Op 496, this Commission announced that it would apply the so-called *Weingarten* rule to PERA. However, both *Weingarten* itself and the *Univ. of Michigan* clearly state that the right to union representation is triggered by the employee's request. See *Univ. of Michigan, supra*, at 500; *City of Oak Park*, 1995 MERC Lab Op 576,578. Here, VanSlambrouck does not assert that she requested a union representative at her interview. I conclude, therefore, that VanSlambrouck has failed to allege facts to support her claim that Respondent violated her *Weingarten* rights. Although VanSlambrouck makes other complaints about her treatment during this interview, none of these complaints allege a violation of PERA.

In accord with the discussion and conclusion of law above, I recommend that the Commission issue the following order.

RECOMMENDED ORDER

The charge is hereby dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Julia C. Stern
Administrative Law Judge

Dated: _____

