

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

In the Matter of:

SERVICE EMPLOYEES INTERNATIONAL UNION,  
LOCAL 502,  
Respondent-Labor Organization,

Case No. CU01 G-040

-and-

JACKIE B. LOVING,  
An Individual Charging Party  
\_\_\_\_\_ /

APPEARANCES:

George H. Kruszewski, Esq., for the Labor Organization

Jackie B. Loving, In Pro Per

**DECISION AND ORDER**

On April 29, 2002, Administrative Law Judge Roy L. Roulhac issued his 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: \_\_\_\_\_

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Appearances:

George H. Kruszewski, Esq., for the Labor Organization

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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 MCL 423.216, this case was heard in Detroit, Michigan on November 27, 2001, by Administrative Law Judge Roy L. Roulhac for the Michigan Employment Relations Commission. This proceeding was based upon an unfair labor practice charge filed against Respondent Service Employees International Union, Local 502, by Charging Party Jackie B. Loving on July 31, 2001. Based upon the record, I make the following findings of fact, conclusions of law, and recommended order pursuant to Section 16(b) of PERA:<sup>1</sup>

The Unfair Labor Practice Charge:

Charging Party claims that Respondent's delay in processing a grievance that challenged the Wayne County Sheriff Department's discontinuance of flat-rate mileage payments violated its duty to represent her and several co-workers. On August 23, 2001, Respondent filed an answer denying the charge, and on November 26, 2001, filed a motion to dismiss the charge.

Findings of Fact:

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<sup>1</sup>Neither party filed a post-hearing brief.

The relevant facts are undisputed. Charging Party is employed as an internal affairs detective by the Wayne County Sheriff Department. She is a member of Respondent's bargaining unit. Respondent and the County of Wayne are parties to a collective bargaining agreement that covers the period December 1, 1996 through November 30, 2000. The agreement contains a grievance procedure that ends in binding arbitration.

On April 4, 2000, Respondent filed grievance #2000-041 on behalf of detectives assigned to the Department's Internal Affairs Section. Respondent alleged that Wayne County violated the parties' collective bargaining agreement when it discontinued its practice of paying flat-rate mileage payments to internal affairs detectives for driving their personal cars while on duty. On October 24, 2000, after a step four grievance meeting between the parties six days earlier, Wayne County advised the Union that the grievance was denied. Subsequently, on November 6, 2000, Respondent filed a demand for arbitration.

Several times during the next several months, Mary Haskins Muhammad, Respondent's first vice president, informed Charging Party that an arbitration demand had been made and that the Union was waiting for a hearing date. On August 14, 2001, two weeks after the charge was filed, an arbitrator heard the grievance. In a September 8, 2001, opinion and award, the arbitrator ruled in favor of the County of Wayne.

#### Conclusions of Law:

Under PERA, a union's duty of fair representation is comprised of three responsibilities: (1) to serve the interests of all members without hostility or discrimination toward any; (2) to exercise its discretion in complete good faith and honesty, and (3) to avoid arbitrary conduct. *Goolsby v City of Detroit*, 419 Mich 651, 659, citing *Vaca v Sipes*, 386 US 171; 64 LRRM 2369 (1967). A union does not breach its duty of fair representation merely by a delay in processing grievances, if the delay does not cause the grievance to be denied. *Teamsters Local 214*, 1995 MERC Lab Op 185, 189.

In this case, there is nothing on the record to support Charging Party's claim that Respondent's conduct in processing a grievance filed on her behalf was arbitrary or with bad faith. Respondent filed a demand for arbitration two weeks after the County of Wayne denied the grievance and informed her several times during the ensuing months that the Union was waiting for a hearing date. Moreover, the grievance was heard shortly after the charge was filed and the arbitrator concluded that the County of Wayne did not violate the contract. Thus, absent evidence that Charging Party was prejudiced by the delay in processing her grievance or that it resulted in its denial, I find that Respondent did not violate its duty of fair representation. I recommend that the Commission grant Respondent's motion to dismiss and issue the order set forth below:

#### Recommended Order

The unfair labor practice charge is dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Roy L. Roulhac  
Administrative Law Judge

Dated: \_\_\_\_\_