STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of:

DETROIT FEDERATION OF TEACHERS,
Respondent-Labor Organization,

Case No. CU02 F-032

-and-

SARANNE BENSON,
An Individual Charging Party.
_____/

APPEARANCES:

Sachs Waldman, by John R. Runyan, Esq., for the Labor Organization

Saranne Benson, In Pro Per

DECISION AND ORDER

On October 15, 2002, 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, 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: _____

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
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DETROIT FEDERATION OF TEACHERS,
Respondent-Labor Organization

Case No. CU02 F-032

-and-

SARANNE BENSON,
An Individual Charging Party
_____/

APPEARANCES:

Sachs Waldman, by John R. Runyan, Esq., for the Public Employer

Saranne Benson, In Pro Per

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

Pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 *et seq*., this case was heard in Detroit, Michigan on September 24, 2002, by Administrative Law Judge Roy L. Roulhac for the Michigan Employment Relations Commission. This proceeding was based upon an unfair labor practice charge filed on June 3, 2002, by Charging Party Saranne Benson against Respondent Detroit Federation of Teachers. Based upon the record, I make the following findings of fact, conclusions of law, and the recommended order pursuant to Section 16(b) of PERA:

The Unfair Labor Practice Charge:

In her June 3, 2002 unfair labor practice charge, Charging Party claims that Respondent discriminated against her because of her status as a retiree by negotiating away her right to receive sick leave, business leave, holiday pay, and union voting rights. Respondent filed an answer on July 29, 2002, and at the hearing, made a motion to dismiss.

Facts:

Charging Party, a retired Detroit Public Schools ("DPS") teacher receiving a retirement allowance, is a dues paying member of Respondent Detroit Federation of Teachers. In April 2001, she was rehired by DPS pursuant to a 1999 amendment to the Public School Employees Retirement Act of 1979. The amended Act permits retired teachers receiving retirement allowances to be re-employed by certain school districts for up to three years without a reduction in their retirement allowance that would ordinarily be required. MCL 38.1361(4) and (6). Thereafter, the Union and

the DPS executed a letter of understanding which provided that re-employed teachers would be placed at Step 9 or 10 of the salary schedule and would receive no benefits beyond salary.

Although the letter of understanding provided that re-employed teachers would receive no benefits beyond their salary, Charging Party was paid benefits by DPS from April 2001 until the end of the 2000-2001 school year. In August 2001, when DPS stopped paying benefits, Charging Party complained to Respondent. A representative told Charging Party that she should be happy with what she was getting because she was paid more than any teacher in the State.

In the meantime, in May and December 2001, Respondent's executive board voted to classify re-hired teachers as temporary employees who may vote in the Union's general elections, but not in local school building elections. At some unspecified time, Charging Party was not allowed to vote in an election for a Union school chairperson.

Conclusions:

Charging Party claims that Respondent discriminated against her because of her age by negotiating away her right to receive benefits. She also claims that the Union denied her the right to vote in a union election. I agree with Respondent that the charge should be dismissed. First, the portion of the charge relating to her complaint that the DPS stopped paying benefits was not filed within the six-month limitation period set forth in Section 16 of PERA. Although the benefits were stopped in August 2001, the charge was not filed until June 2002. Moreover, even if the charge were timely filed, the Commission lacks jurisdiction to consider age discrimination complaints. The U. S. Equal Opportunity Commission and the Michigan Department of Civil Rights adjudicate these complaints.

Finally, Charging Party's claim that she was not permitted to vote in a union election is an internal union matter over which the Commission lacks jurisdiction. The Commission has held that a union's duty of fair representation is limited to actions having an effect on employment and that internal union affairs are outside the scope of PERA. *AFSCME Council 25, Local 1918*, 1999 MERC Lab Op 11; *Private Industry Council*, 1993 MERC Lab Op 907; *MESPA (Alma Pub Sch Unit)*, 1981 MERC Lab Op 149, 154-55. Voting rights of union members are internal union matters. Since Charging Party failed to state a claim for which relief can be granted under PERA, I recommend that the Commission 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: _____