

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

In the Matter of:

CITY OF DETROIT,
Respondent-Public Employer,

Case No. C04 C-068
(On Compliance)

-and-

AMERICAN FEDERATION OF STATE, COUNTY,
AND MUNICIPAL EMPLOYEES, LOCAL 207,
Charging Party-Labor Organization.

APPEARANCES:

City of Detroit Law Department, by Kathryn M. Niemer, Esq., Assistant Corporation Counsel, for Respondent
Sheff & Washington, P.C., by George B. Washington, Esq., for Charging Party

DECISION AND ORDER

On July 29, 2005, Administrative Law Judge David M. Peltz issued his Decision and Recommended Order in the above-entitled matter, finding that Respondent has engaged in and was engaging in certain unfair labor practices, and recommending that it cease and desist and take certain affirmative action as set forth in the attached Decision and Recommended Order of the Administrative Law Judge.

The Decision and Recommended Order of the Administrative Law Judge was served on the interested parties in accord with Section 16 of Act 336 of the Public Acts of 1947, as amended.

The parties have had an opportunity to review this Decision and Recommended Order for a period of at least 20 days from the date the decision was served on the parties, and no exceptions have been filed by any of the parties to this proceeding.

ORDER

Pursuant to Section 16 of the Act, the Commission adopts as its order the order recommended by the Administrative Law Judge.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Nora Lynch, Commission Chairman

Nino E. Green, Commission Member

Dated: _____

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Sheff & Washington, P.C., by George B. Washington, Esq., for Charging Party

**DECISION AND RECOMMENDED ORDER
OF ADMINISTRATIVE LAW JUDGE**

On February 28, 2005, I issued a Decision and Recommended Order in this matter finding that Respondent City of Detroit violated the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.201 et seq. by unlawfully discharging Susan Ryan in retaliation for performing her duties as chief steward for Charging Party American Federation of State, County and Municipal Employees, Local 207. To remedy this violation, the City was ordered, in part, to make Ryan whole for any loss of pay which she may have suffered as a result of her termination by paying to her a sum equal to that which she would have earned from the date she was discriminated against to the date she was offered reinstatement, less interim earnings, together with interest at the statutory rate. Neither party filed exceptions to the Recommended Decision and Order, and it became the final order of the Michigan Employment Relations Commission (MERC) on April 19, 2005. *City of Detroit*, 18 MPER 27 (2005).

On June 28, 2005, Charging Party filed a request for a compliance hearing, asserting that the City has refused to pay Ryan the back pay to which she is owed pursuant to the Commission's Decision and Order. Rule 177, R 423.177, of MERC's General Rules and Regulations, which governs compliance proceedings before the Commission, provides, in part:

(4) Each respondent alleged in the request to have compliance obligations *shall, within 10 days of service on it of the request*, file an original and 4 copies of an answer thereto with the commission, together with proof of service of copies of such documents on all other parties. The answer shall specifically admit, deny or explain each and every allegation set forth in the request, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. As to all matters within the knowledge of the respondent, including but not limited to the various factors entering into the computation of gross back pay, a general denial shall not suffice. As to such matters, if the respondent disputes either the accuracy of the figures in the request or the premises upon which they are based, the answer shall specifically state the basis for such disagreement, setting forth in detail the respondent's position as to the applicable premises and furnishing the appropriate supporting figures.

(5) *If the respondent fails to file any answer to the request within the time prescribed by this rule, then the commission may, either with or without taking evidence in support of the allegations set forth in the request for compliance and, without further notice to the respondent, enter an appropriate order.* [Emphasis supplied.]

As noted, Charging Party's request for a compliance hearing was filed with the Commission on June 28, 2005. The request set forth in detail the back pay periods broken down by calendar quarters, the specific figures and basis of computation of gross back pay, the interim earnings and expenses for each quarter, and the net back pay, seniority and benefits due. Included with the request for compliance was a signed and notarized proof of service indicating that the request was served on the City's attorney on June 24, 2005, by mailing it to her at her address of record. To date, Respondent has not filed an answer to the request for a compliance hearing, nor has the City contacted the undersigned to request an extension of time for filing an answer. Under such circumstances, a compliance hearing in this matter is not warranted. Pursuant to Rule 177(5), I find that the City has an obligation to pay the lost wages and benefits owed to Ryan as set forth by the Union in its request for a compliance hearing.

Based upon the foregoing, I recommend that the Commission issue the order set forth below:

RECOMMENDED ORDER

It is hereby ordered that Respondent City of Detroit, its officers and agents, shall make Susan Ryan whole for the loss of pay and benefits as set forth specifically and in detail in the request for a compliance hearing filed by Charging Party AFSCME, Local 207 on June 28, 2005.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

David M. Peltz
Administrative Law Judge

Dated: _____