

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

In the Matter of:

CITY OF DETROIT (DEPARTMENT OF PUBLIC WORKS),
Respondent - Public Employer,

-and-

ASSOCIATION OF PROFESSIONAL CONSTRUCTION
INSPECTORS,
Charging Party - Labor Organization.

Case Nos. C04 G-182
C04G-191

APPEARANCES:

City of Detroit Law Department, by Andrew Jarvis, Esq., for the Public Employer

Stephen Hill, for the Labor Organization

DECISION AND ORDER

On January 31, 2005, 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

Nora Lynch, Commission Chairman

Harry W. Bishop, Commission Member

Nino E. Green, Commission Member

Dated: _____

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DECISION AND RECOMMENDED ORDER
OF ADMINISTRATIVE LAW JUDGE
ON SUMMARY DISPOSITION MOION

These cases were heard in Detroit, Michigan, on December 16, 2004, by Administrative Law Judge Roy L. Roulhac for the Michigan Employment Relations Commission (MERC) pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 and 423.216. Based on the record, I make the following findings of facts and conclusions of law.

The Unfair Labor Practice Charges:

Charging Party Association of Professional Construction Inspectors filed two unfair labor practice charges against Respondent City of Detroit, alleging violations of Section 10(1) of PERA. The first charge, Case No. C04 G-182, filed on July 9, 2004, reads:

Stephen Hill, President and also representative of Association of Professional Construction Inspectors was reassigned his work location effective June 24, 2004. This reassignment moves Stephen Hill away from the location of the workers he was elected to represent. This reassignment came just several days after Stephen Hill initiated a grievance on behalf of worker(s) at the previous work location and the Association of Professional Construction Inspectors.

Case No. C04 G-191 was filed on July 19, 2004. It reads:

Effective July 01, 2004, the City of Detroit (Department of Public Works) has laid off several construction inspectors who are members of the bargaining unit, the Association of Professional Construction Inspectors. There is not a lack of work, or funds, or conditions beyond the control of the City of Detroit to cause such a

layoff. This layoff has disadvantaged the City of Detroit and is causing harm to itself and its citizens. This layoff comes after recent actions by the Association of Professional Construction Inspectors as it exercised its rights as provided by the above Public Acts.

Findings of Fact and Conclusions of Law:

The only evidence presented in this case was the testimony of Stephen Hill, Charging Party's president. He testified that the parties are engaged in contract negotiations and the Association has rejected Respondent's offer to settle the contract. Hill also testified that Charging Party has filed a grievance against Respondent for harassment. According to Hill, because the Union will not succumb to Respondent's efforts to get rid of the union, Respondent has attempted to replace them with outside inspectors, and failing that, has laid off inspectors without a financial reason.

Hill also testified that although there is a shortage of inspectors in the area of the City where he was assigned, Respondent transferred him to a downtown location. According to Hill, he was told that he was transferred because "they did not want me to be disruptive by persuading the employees to be disruptive." Hill testified that the transfer removed him from the immediate area where employees work that he represents and financially disadvantaged him. According to Hill, unlike other employees who are assigned to work downtown, he was not issued a parking pass and is required to park at expensive parking lots or at a parking meter where he risks accumulating parking tickets on his vehicle¹.

At the conclusion of Charging Party's case, Respondent made a motion for summary disposition. Respondent argued that Charging Party presented mere allegations and offered no evidence to support a violation of PERA. I agree. General statements and conclusionary allegations that Respondent committed an unfair labor practice will not withstand a summary motion. The evidence presented by Charging Party does not include details sufficient to support a violation of any sub-section of Section 10(1) of PERA. *AFSCME Council 25*, 1992 MERC Lab Op 166; *Zeeland Public Schs*, 1999 MERC Lab Op 505. Because plaintiffs failed to offer more than assertions that Respondent violated PERA, I recommend that Respondent's motion for summary disposition be granted and that the Commission issue the following order.

RECOMMENDED ORDER

The unfair labor practice charges are dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Roy L. Roulhac
Administrative Law Judge

Dated:

¹ Among other things, Section 10(1) makes it unlawful for a public employer to (a) interfere with, restrain or coerce public employees in their right to organize together to form a labor organization, to engage in concerted activities, and/or to collectively bargain; and (c) to discriminate in regards to hire, terms or conditions of employment in order to encourage or discourage membership in a labor organization.