

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

In the Matter of:

CITY OF DETROIT (DEP'T OF WATER & SEWERAGE),
Public Employer-Respondent

Case No. C05 A-027

-and-

SHIRLEY J. LIDDELL-HAMM,
An Individual-Charging Party

APPEARANCES:

Bruce A. Henderson, Esq., City of Detroit Law Department, for the Respondent

Shirley J. Liddell-Hamm, In Propria Persona

DECISION AND ORDER

On September 13, 2005, Administrative Law Judge Julia C. Stern issued her 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

Nora Lynch, Commission Chairman

Nino E. Green, Commission Member

Dated: _____

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APPEARANCES:

Bruce A. Henderson, Esq., City of Detroit Law Department, for the Respondent

Shirley J. Liddell-Hamm, in propria persona

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 423.216, this case was heard at Detroit, Michigan on August 8, 2005, before Julia C. Stern, Administrative Law Judge for the Michigan Employment Relations Commission. Based upon the record, which consists of the charge and Charging Party's testimony at the hearing, I make the following findings of fact, conclusions of law, and recommended order.

The Unfair Labor Practice Charge:

Shirley J. Lidell-Hamm filed this charge against her former employer, the City of Detroit, on January 28, 2005. The charge reads, in pertinent part:

Discrimination based on Union Activity

On 6/25/04, a vote for the Union, Association of Professional & Technical Employees was held for the job title Commercial Operations Specialist II at the Department of Water & Sewerage (DWS). The union was unanimously voted in. I, Shirley Liddell-Hamm, selected the Union and initiated the vote to ratify and retain. Thereafter, I was subjected to intimidation, harassment, character assassination, unfair and differential treatment,

intolerable work conditions, discipline for activities not issued to my colleagues involved in identical activities (docking of pay) resulting in my resignation from the organization.

1. In July 2004, four Commercial Operation Specialists returned from a Union luncheon meeting, allegedly fifteen (15) minutes late. We left at the same time together, walking into the work area together. I and one other COS II was docked via pay and issued written warnings. The other two did not receive any warning, docking, emails, whatsoever.

Additionally, I was warned to not interact with Jane Wilson, while no other employees (other than Wilson) was issued the same orders.

My work duties and conditions were drastically changed as a result of my complaints of illegal behaviors by divisional personnel (violations of Title VII provisions). Documentation of my pleas for investigations were ignored. Once the union was voted in, the same behaviors worsened. I was continually “barked at” by my immediate supervisor, denied required and needed training for a new billing system, and purposely set up for failure.

Initially hired in as a Customer Service Manager, I was reassigned for attempting to issue discipline to a subordinate employee for (1) time card fraud, (2) insubordination, (3) swearing at me, and confrontational remarks and body language.

As a result of forming (retaining) the APTE Union, conditions worsened for me and ultimately I resigned after developing chest tightness and depression.

Facts:

Lidell-Hamm was initially hired by the Respondent as a customer service manager in its department of water & sewerage. Sometime prior to May 2004, she was demoted to commercial operations specialist II for attempting to issue discipline to a subordinate employee. On May 14, 2004, the Association of Professional and Technical Employees (APTE) filed a petition for representation election to add employees with the job title of commercial operations specialist IIs to its existing unit of technical specialists. Liddell-Hamm initiated contact with the APTE and solicited support for the union. Pursuant to a consent election agreement, the Commission held an election on June 25, 2004 in which eligible employees voted unanimously to be represented by this labor organization. The Commission certified the APTE as the collective bargaining representative on July 6, 2004.

On July 6, 2004, four commercial operations specialists IIs, including Lidell-Hamm, returned from a union luncheon meeting fifteen minutes late. The four left together and returned together, walking into the work area at the very same time. Two of the four, Liddell-Hamm and Jane Wilson, were docked twenty-two minutes pay for being late from lunch. The other two received no discipline.

Between the date of the election and her resignation, Liddell-Hamm’s supervisor, Dawn Griffith, repeatedly spoke to her in a rude tone while issuing her orders and criticizing her work. In addition, Liddell-

Hamm's request to receive training for a new billing system was denied. During this period, Lidell-Hamm developed symptoms of stress and depression that caused her to seek assistance from the Respondent's employee assistance program and her personal physician. On July 29, 2005, Lidell-Hamm resigned her employment with Respondent.

Lidell-Hamm filed this charge with the Commission on January 28, 2005. She did not mail or otherwise personally serve a copy of the charge on Respondent. On February 9, 2005, the Commission mailed a copy of the charge to Respondent by certified mail along with a notice of hearing. The charge was served on Respondent on February 11, 2005.

Discussion and Conclusions of Law:

Pursuant to Section 16(a) of PERA, the Commission has no authority to find an unfair labor practice based on conduct occurring more than six months prior to the filing of the charge with the Commission and the service of a copy upon the respondent. The statute of limitations under Section 16(a) is jurisdictional and is not waived by a respondent's failure to raise it as a defense. *AFSCME Local 1583*, 18 MPER 41 (2005); *Walkerville Rural Communities Schs*, 1994 MERC Lab Op 582, 583. Under the Commission's rules, the charging party is responsible for the timely and proper service of a copy of the charge upon the charged party or parties against whom the charge is made. R 423.151(4) and (5).

The alleged discrimination against Liddell-Hamm ended with her resignation on July 29, 2005. Lidell-Hamm filed her charge with the Commission within the statutory period. However, a copy of the charge was not served on the Respondent within six months of the date of any alleged unfair labor practice as required by Section 16(a). I conclude, therefore, that Lidell-Hamm's charge must be dismissed as untimely, and 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: _____