

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

In the Matter of:

SAGINAW COUNTY COMMUNITY ACTION  
COMMITTEE, INC,  
Respondent-Employer in Case No. C05 F-126,

-and-

SERVICE EMPLOYEES INTERNATIONAL UNION  
LOCAL 517M,  
Respondent-Labor Organization in Case No. CU05 F-023,

-and-

DEBORAH A. JOHNSON,  
An Individual Charging Party.

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APPEARANCES:

Howard F. Gordon, Esq., for the Labor Organization

Deborah A. Johnson *In Propria Persona*

**DECISION AND ORDER**

On September 13, 2005, Administrative Law Judge David M. Peltz issued his Decision and Recommended Order in the above matter finding that Respondents have not engaged in and were 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

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Nora Lynch, Commission Chairman

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Nino E. Green, Commission Member

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

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**APPEARANCES:**

Howard F. Gordon, Esq., for the Labor Organization

Deborah A. Johnson *in pro per*

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

On June 17, 2005, Deborah A. Johnson filed unfair labor practice charges against her former Employer, Saginaw County Community Action Committee, Inc. (CAC), and her Union, Service Employees International Union (SEIU), Local 517M. The charge against the Employer in Case No. C05 F-126 states:

Harassment taken place during work time 2004, discussion within letter dated May 10, 2005. Other documents will be sent when received to support letter. Release of employment from CAC Head Start while under Dr. care and still on disability. Was release while corp. management took place. Union stated was grievance took place uncooperative with union 571M. Feel this was a control issue and continued harassment.<sup>1</sup>

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<sup>1</sup> This quotation, as well as those which follow, is unaltered from the original.

With respect to the Labor Organization, the charge in Case No. CU05 F-023 alleges:

A breach of the collective bargaining agreement has taken place in the expected collaboration that should have taken place in the said agreement between said individual on form and SEIU Local 517M sentinel. Grievance is in question/with pursuit off management collaboration.

On July 20, 2005, the Union moved to dismiss the charges on the basis that SEIU was certified as the exclusive representative of the bargaining unit by the National Labor Relations Board (NLRB), and that the Michigan Employment Relations Commission (MERC) lacks jurisdiction to decide this matter. In an order issued on July 21, 2005, I directed Charging Party to respond to the Union's motion and, in particular, to address the issue of whether either Respondent is within MERC's jurisdiction.

On August 9, 2005, Charging Party filed a response to the motion to dismiss which states, in pertinent part:

Local SEIU 517M is an agency align and created by authoritative direction and rules that follow policies. They are a organization and agency a pannel of people through a political unit exercise authority. They are in equal violation of charges filed by charging party Deborah A. Johnson filed on unfair labor practices. The charging party at this time proceed only the charge of failure to file a grievance on the subject of termination. However an Attorney have reviewed the overall complaints, have found many other charges that will fit my formula of problems. I have not decided to follow through to attempt to reinforce other complaints. Local SEIU 517M did not file a grievance to protect the security of charging party employment and future at Saginaw County Community Action Commitee. Local 517M work in correlation with CAC team and management members. Records of employees and CAC are viewed and planning is put into place with Local 517M. Funds are put into place for accuracy and sound judgement of SEIU 517M. In collaboration with CAC governmental decission of governmental policies take place. Local 517M is in violation to their contract between the charging party of Community Action Commitee. When there is a break down of sound judgement and decission making of governmental policies, fund, work and labor issues collaborating forces pay the price. Local 517M, Saginaw County Community Action Commitee, and charging party Deborah A. Johnson work in correlation to insure security with all parties. This cycle was in an attempt to take place within the signing of contract agreements until the contract of agreements were broken.

Having reviewed the Union's motion to dismiss, as well as the response thereto filed by Charging Party, I conclude that dismissal of the charges is warranted. In its motion, the Union asserts that the NLRB, not MERC, has jurisdiction over this dispute. Under the doctrine of federal preemption, MERC has jurisdiction to resolve unfair labor practices disputes only when the NLRB lacks or refuses to exercise jurisdiction. See e.g. *AFSCME v Dep't of Mental Health*, 215 Mich App 1 (1996). As noted, I directed Charging Party to respond to the jurisdictional issue raised by the Union in its motion to dismiss. The pleading which Charging Party filed on

August 9, 2005, is non-responsive to this issue. Accordingly, I recommend that the Commission issue the order set forth below:

RECOMMENDED ORDER

It is hereby recommended that the unfair labor practice charges be dismissed in their entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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David M. Peltz  
Administrative Law Judge

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