

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

In the Matter of:

AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES
(AFSCME), LOCAL 345,
Labor Organization-Respondent

- and -

Case No. CU07 B011

TERRIE REYNOLDS,
Individual Charging Party.

APPEARANCES:

Cassandra D. Harmon, Esq., for Labor Organization-Respondent

Terrie Reynolds, Charging Party, *In Propria Persona*

DECISION AND ORDER

On May 29, 2007, Administrative Law Judge, Doyle O'Connor 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

Christine A. Derdarian, Commission Chair

Nino E. Green, Commission Member

Eugene Lumberg, Commission Member

Dated: _____

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AMERICAN FEDERATION OF STATE,
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(AFSCME), LOCAL 345,

Respondent-Labor Organization,

Case No. CU07 B-011

-and-

TERRIE REYNOLDS,
An Individual Charging Party.

APPEARANCES:

Terrie Reynolds, Charging Party, appearing personally

Cassandra D. Harmon, for Respondent Labor Organization

**DECISION AND RECOMMENDED ORDER
OF ADMINISTRATIVE LAW JUDGE ON ORDER TO SHOW CAUSE**

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 assigned for hearing to Doyle O'Connor, Administrative Law Judge (ALJ) for the Michigan Employment Relations Commission.

The Unfair Labor Practice Charge, Order to Show Cause, and Findings of Fact:

On February 28, 2007, a Charge was filed in this matter asserting that the Charging Party asked her Union to pursue a grievance and that her Union representative discussed the matter with her and told her he believed the grievance was without merit and that it would not be pursued.

On March 29, 2007, pursuant to Rule 165, R 423.165, of the General Rules and Regulations of the Employment Relations Commission, Charging Party was granted twenty-one days to file a written statement explaining why the charges should not be dismissed prior to a hearing for failure to state a claim under the Public Employment Relations Act (PERA). The order advised Charging Party that to avoid dismissal of the Charge, any response to the order to show cause must provide a factual basis to proceed that establishes the existence of an alleged violation of PERA. Charging Party did not respond to the order.

Discussion and Conclusions of Law:

To pursue a charge against the union, a charging party must allege and be prepared to prove that the union's conduct was arbitrary, discriminatory or done in bad faith. *Vaca v Sipes*, 386 US 171, 177 (1967); *Goolsby v Detroit*, 419 Mich 651, 679 (1984). Reynolds asserts no more than a disagreement with her Union over the viability of a proposed grievance, accepting as true all the assertions made by Reynolds in the charge and in the several attachments to the charge.

The fact that Reynolds is dissatisfied with her Union's efforts or ultimate decision is insufficient to establish a breach of the duty. *Eaton Rapids Ed Assoc*, 2001 MERC Lab Op 131; *Wayne County DPW*, 1994 MERC Lab Op 855. A union has considerable discretion to decide which grievances to pursue. When evaluating whether to accept a grievance, a union has discretion to consider the likelihood of success and the interest of the union membership as a whole. *Lowe v Hotel & Restaurant Employees Union, Local 705*, 389 Mich 123, 145-146. A union's decision not to proceed with a grievance is not arbitrary as long as it is not so far outside a wide range of reasonableness as to be irrational. *Air Line Pilots Ass'n v O'Neill*, 499 US 65, 67 (1991); *City of Detroit (Fire Dep't)*, 1997 MERC Lab Op 31, 34-35. The conclusory allegations in the charge in this matter, together with Charging Party's failure to respond to an order to show cause, warrant dismissal for failure to state a claim under the Act.

RECOMMENDED ORDER

The unfair labor practice charge is dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Doyle O'Connor
Administrative Law Judge

Dated: _____