

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

In the Matter of:

AFSCME COUNCIL 25,  
Labor Organization-Respondent,

Case No. CU08 H-038

-and-

GREGORY KALLIO,  
Individual-Charging Party.

APPEARANCES:

Miller Cohen P.L.C., by Bruce A. Miller, Esq., for Respondent

Gregory Kallio, *In Propria Persona*

**DECISION AND ORDER**

On October 10, 2008, Administrative Law Judge Doyle O'Connor issued his 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

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Christine A. Derdarian, Commission Chair

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Nino E. Green, Commission Member

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Eugene Lumberg, Commission Member

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

**STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
EMPLOYMENT RELATIONS COMMISSION**

In the Matter of:

AFSCME Council 25,  
Respondent-Labor Organization,

Case No. CU08 H-038

-and-

Gregory Kallio,  
Individual Charging Party.

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**APPEARANCES:**

Miller Cohen, PLC, by Bruce A. Miller, Attorney for Respondent-Labor Organization

Gregory Kallio, Individual Charging Party appearing personally

**DECISION AND RECOMMENDED ORDER  
OF ADMINISTRATIVE LAW JUDGE  
ON SUMMARY JUDGMENT**

Pursuant to the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.201 *et seq*, this case was assigned to Doyle O'Connor, of the State Office of Administrative Hearings and Rules (SOAHR), acting on behalf of the Michigan Employment Relations Commission (MERC). This matter is being decided pursuant to an order to show cause why the charge should not be dismissed for failure to state a claim.

**The Unfair Labor Practice Charge:**

On August 19, 2008, a Charge was filed in this matter by Gregory Kallio asserting that the Michigan AFSCME Council #25 (the Union) had violated the Act, by allegedly failing to timely resolve a dispute over the proper rate or timing of dues deductions. Such an allegation failed to state a claim under the Public Employment Relations Act, and, therefore, pursuant to R 423.165(2)(d), the Charging Party was ordered to show cause why the Charge should not be dismissed. Charging Party Gregory Kallio did not file a response to the order.

**Discussion and Conclusions of Law:**

Where a charge fails to state a claim under the Act, it is subject to dismissal pursuant to an order to show cause issued under R 423.165. The failure to respond to such an order may, in itself, warrant dismissal. *Detroit Federation of Teachers*, 21 MPER

3 (2008). Regardless, the fact that a member expresses dissatisfaction with their union's efforts or ultimate decision on a disputed matter is insufficient to constitute a proper charge of a breach of the duty of fair representation. *Eaton Rapids Ed Assoc*, 2001 MERC Lab Op 131; *Wayne County DPW*, 1994 MERC Lab Op 855. Because there is no allegation in the Charge supporting a claim that the Union violated its statutory duties, and because no response was filed to the order to show cause, the charge against the Union must be dismissed as it fails to state a claim upon which relief can be granted.

RECOMMENDED ORDER

The unfair labor practice charge is dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Doyle O'Connor  
Administrative Law Judge  
State Office of Administrative Hearings and Rules

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