

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

In the Matter of:

WAYNE COUNTY,
Public Employer-Respondent,

Case No. C10 D-094

-and-

MICHIGAN AFSCME COUNCIL 25,
Labor Organization-Charging Party

APPEARANCES:

Aina N. Watkins, Esq., Michigan AFSCME Council 25, for Charging Party

Deborah K. Blair-Krosnicki, Esq., Wayne County Labor Relations Division, for Respondent

DECISION AND ORDER

On July 15, 2010, 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

Christine A. Derdarian, Commission Chair

Nino E. Green, Commission Member

Eugene Lumberg, Commission Member

Dated: _____

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

In the Matter of:

WAYNE COUNTY,
Public Employer-Respondent,

-and-

Case No. C10 D-094

MICHIGAN AFSCME COUNCIL 25,
Labor Organization-Charging Party.

APPEARANCES:

Cassandra Harmon Higgins, for Charging Party

Deborah K. Blair, for Respondent

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

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 to Doyle O'Connor, Administrative Law Judge with the State Office of Administrative Hearings and Rules (SOAHR), acting on behalf of the Michigan Employment Relations Commission (MERC).

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

A Charge was filed with the Commission on April 12, 2010, by Michigan AFSCME Council 25 (the Union), against Wayne County (the Employer), related to the unilaterally imposed short workweek or one day furlough dispute as it affected the contractual super-seniority language. That underlying dispute, regarding the imposition of a four-day workweek, had already been substantively decided in a Decision and Recommended Order issued on February 19, 2010, in Case No. C10 A-024.

The Charge asserted that the Employer violated the super-seniority for Union officials provision of the contract when it imposed the four-day workweek. To the extent that this new Charge asserted more than a breach of contract, it appeared to do no more than assert a different theory on which relief could be granted regarding the four-day workweek dispute, where that issue had already been resolved in the Decision and Recommended Order of February 19, 2010. For that reason, on April 23, 2010, AFSCME

was directed to file a more definite statement of its Charge, with the direction that its response was to:

. . . directly and specifically address how this new claim is distinguishable from the prior claim and how the relief sought would be different. Additionally, if AFSCME seeks to litigate this new claim, it should address whether the cases should be consolidated.

The Employer filed an Answer to the Charge on April 22, 2010, denying any wrongdoing. After requesting and being granted an extension of time, AFSCME filed a timely response to the Order for more definite statement on May 20, 2010; however, the response was merely in the form of an amended Charge which made no apparent effort to address the indentified deficiencies in the Charge and did not indicate how the new claim was distinguishable from the previously resolved claim or how the relief sought would be different. A cover letter filed with the proposed amended Charge did indicate opposition to consolidating the new super-seniority claim with the already pending Charge in case No. C10 A-024-A. On May 28, 2010, the parties were notified that AFSCME's response was non-compliant and that, therefore, the County need not reply. No effort by AFSCME to cure that failure was made.

Discussion and Conclusions of Law:

Based on the Charge and on the response to the order to show cause, and accepting the facts as asserted in the Charge as true, and in the absence of any effort by AFSCME to establish otherwise, I find that, to the extent that any cognizable claim for relief may have been stated in this matter, it is duplicative of claims raised and resolved in the already pending matter, Case No. C10 A-024-A, and, for this reason, the allegations in this case fail to state a claim upon which relief could be granted. Separate and related Orders are being simultaneously issued in the companion cases, C10 A-024-A and C10 B-034.

RECOMMENDED ORDER

The Charge is dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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

Dated: July 15, 2010