

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

In the Matter of:

LAPEER COUNTY,
Public Employer-Respondent,

Case No. C08 I-188

-and-

TEAMSTERS LOCAL 214,
Labor Organization-Charging Party.

APPEARANCES:

Howard L. Shifman P.C., by Howard L. Shifman, Esq., for Respondent

Les Barrett, for Charging Party

DECISION AND ORDER

On December 30, 2008, Administrative Law Judge 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. Dardarian, 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:

LAPEER COUNTY,
Public Employer-Respondent,

Case No. C08 I-188

-and-

TEAMSTERS LOCAL 214,
Labor Organization-Charging Party.

APPEARANCES:

Les Barrett, for Charging Party

Howard L. Shifman, for Respondent

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

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, of the State Office of Administrative Hearings and Rules (SOAHR), acting on behalf of the Michigan Employment Relations Commission (MERC).

The Unfair Labor Practice Charge:

On September 16, 2008, a Charge was filed in this matter by Teamsters Local 214 (the Union) asserting that unspecified representatives of Lapeer County (the Employer) had violated the Act, by unilaterally changing unspecified terms of the contract between the parties and by refusing to bargain over such changes, on unspecified dates. Such allegations failed to meet the minimum pleading requirements set forth in R 423.151(2). Pursuant to R 423.165(2)(d), on October 10, 2008, the Union was ordered to provide a more definite statement of the Charge against the Employer.

The order indicated that the Commission must receive a written response by no later than twenty-one days (21) after the date on the order, and that a failure to respond would result in dismissal of the Charge. Charging Party was instructed that the response must, as expressly required by R 423.151(2), provide a clear and complete statement of the facts which allege a violation of PERA, and must factually address the following deficits in the Charge:

1. The date(s) of the alleged occurrences.
2. The names of each agent of the Employer who is alleged to have engaged in the claimed improper conduct.
3. A factual description of the conduct that is alleged to violate the Act, including the nature of the alleged change.

Charging Party did not respond to the order.

Discussion and Conclusions of Law:

Where a charge does not provide the minimum detail required by R 423.151, it fails to state a claim under the Act, and it is subject to dismissal. The failure to respond to an order for a more definite statement may, in itself, warrant dismissal. *Detroit Federation of Teachers*, 21 MPER 3 (2008). Regardless, PERA does not prohibit all types of perceived improper conduct or unfair treatment. Absent a factually supported allegation of a violation of the Act, occurring within six months of the filing of the Charge, the Commission is foreclosed from making a judgment on the merits or fairness of the actions alluded to in the Charge in this matter. See e.g. *City of Detroit (Fire Department)*, 1988 MERC Lab Op 561, 563-564; *Detroit Board of Education*, 1987 MERC Lab Op 523, 524; *Walkerville Rural Community Schools*, 1994 MERC Lab Op 582, 583. Because the Charge as filed failed to meet the minimum pleading requirements, and because no response was filed to the order for more definite statement, the charge against the Employer 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

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

Dated: _____