STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of:

AFSCME LOCAL 1600,
Labor Organization-Respondent,

Case No. CU11 H-023

-and-

DEON OTIS,
An Individual-Charging Party.
_____________________________________/

APPEARANCES:

Deon Otis, *In Propria Persona*

DECISION AND ORDER

On October 25, 2011, 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

____
Edward D. Callaghan, Commission Chair

____
Nino E. Green, Commission Member

____
Christine A. Derdarian, Commission Member

Dated: ____________

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
EMPLOYMENT RELATIONS COMMISSION

In the Matter of:

AFSCME LOCAL 1600,
Respondent-Labor Organization, Case No. CU11 H-023

-and-

DEON OTIS,
Individual Charging Party.
____/

APPEARANCES:

Deon Otis, Charging Party appearing on his own behalf

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, of the Michigan Administrative Hearing System (MAHS), acting on behalf of the Michigan Employment Relations Commission (MERC).

The Unfair Labor Practice Charge

The Charge in this matter, filed by Charging Party Deon Otis against Respondent AFSCME Local 1600, on August 19, 2011, alleged in its entirety:

> Wanton neglect of my grievances, conspiring with management to discipline, neglect of duty to fairly represent employee. Punitive damages, etc.

Such allegations failed to meet the minimum pleading requirements set forth in R 423.151(2). Pursuant to R 423.162 and R423.165, the Charging Party was ordered to provide a more definite statement of the Charge against the Union. Charging Party was instructed that a revised Charge, or a written explanation of the Charge must be filed, which explained what it is that someone did or failed to do that was being complained about.

Charging Party was cautioned that to avoid dismissal of the Charge, the written response to that Order must assert facts that establish a violation of PERA. The response

was to describe who did what and when they did it, and explain why such actions constitute a violation of PERA. The Order instructed that a timely response would be reviewed to determine whether a proper claim has been made and whether a hearing should be scheduled.

Charging Party was additionally cautioned that if the Charge and the response to the Order did not state a valid claim, if the Charge was not timely filed, or if there was no timely respond to that Order, a decision recommending that the Charge be dismissed without a hearing would be issued, and that, pursuant to MERC Rule R 423.176, Charging Party would have the right to file exceptions to that recommended dismissal.

Charging Party did not respond to the Order.

Discussion and Conclusions of Law:

Where a charge fails to state a claim under the Act, it is subject to dismissal or an order for more definite statement pursuant R423.162 and R423.165. The failure to respond to such an order may, in itself, warrant dismissal. *Detroit Federation of Teachers*, 21 MPER 3 (2008). Regardless, the perfunctory legal conclusions asserted in the charge do not state a claim for violation of the Act. The dispute appears to arise from grievances asserted by Otis. While Unions have a duty to fairly represent bargaining unit members, they also have wide discretion in how they carry out that duty and are expected, and entitled, to act on behalf of the greater good of the bargaining unit, even to the disadvantage of certain employees. *Lowe v Hotel & Restaurant Employees Union, Local 705,* 389 Mich 123, 145-146 (1973); *Lansing Sch Dist*, 1989 MERC Lab Op 210, 218, *aff'd* Mich App No. 116345 (March 26, 1991), *lv app den* 439 Mich 955 (1992); *City of Flint*, 1996 MERC Lab Op 1. See also, *Air Line Pilots Ass'n v O'Neill,* 499 US 65, 67 (1991). The allegations do not state a claim against the Union under PERA, the statute that this agency enforces, and the charge is therefore subject to summary dismissal.

RECOMMENDED ORDER

The unfair labor practice charge is dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

____

Doyle O'Connor
Administrative Law Judge
Michigan Administrative Hearing System

Dated: October 25, 2011