

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

In the Matter of:

WAYNE STATE UNIVERSITY,  
Public Employer-Respondent,

-and-

UNITE HERE LOCAL 24,  
Labor Organization-Charging Party.

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Case No. C14 E-053  
Docket No. 14-008982-MERC

APPEARANCES:

Kris Booker, Housekeeper/Union Steward, for Charging Party

**DECISION AND ORDER**

On October 29, 2014, Administrative Law Judge David M. Peltz 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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/s/  
Edward D. Callaghan, Commission Chair

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/s/  
Robert S. LaBrant, Commission Member

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/s/  
Natalie Yaw, Commission Member

Dated: December 11, 2014

**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
EMPLOYMENT RELATIONS COMMISSION**

In the Matter of:

WAYNE STATE UNIVERSITY,  
Respondent-Public Employer,

-and-

UNITE HERE LOCAL 24,  
Charging Party-Labor Organization.

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Case No. C14 E-053  
Docket No. 14-008982-MERC

**APPEARANCES:**

Kris Booker, Housekeeper/Union Steward, for Charging Party

**DECISION AND RECOMMENDED ORDER  
OF ADMINISTRATIVE LAW JUDGE**

This case arises from an unfair labor practice charge filed on May 2, 2014, by Unite HERE Local 24 against Wayne State University. Pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 and 423.216, the charge was assigned to David M. Peltz, Administrative Law Judge (ALJ) for the Michigan Administrative Hearing System (MAHS), acting on behalf of the Michigan Employment Relations Commission (MERC).

**The Unfair Labor Practice Charge and Procedural History:**

The unfair labor practice charge alleges that Wayne State University unjustly terminated employee Kris Booker, a union steward, after Booker reported to management and campus police that a supervisor had made threatening and derogatory statements towards him. In an order issued on November 18, 2012, I directed Charging Party to show cause why the charge should not be dismissed for failure to state a claim upon which relief can be granted under PERA. The response to the order to show cause was due by the close of business on June 6, 2014. To date, no response has been received, nor has Charging Party requested an extension of time in which to file such a response.

**Discussion and Conclusions of Law:**

The failure of a charging party to respond to an order to show cause may, in and of itself, warrant dismissal of the charge. *Detroit Federation of Teachers*, 21 MPER 3 (2008). In any event, accepting all of the allegations in the charge as true, dismissal of the charge on summary disposition is warranted.

Commission Rule 423.165 allows for a pre-hearing dismissal of a charge, or for a ruling in favor of the charging party. In the instant case, it appears that dismissal of the charge without a hearing is warranted on the ground that Charging Party has failed to state a claim upon which relief can be granted. Section 9 of PERA protects the rights of public employees to form, join or assist labor organizations, to engage in lawful concerted activities for the purpose of collective bargaining or mutual aid or protection, to negotiate or bargain collectively with their public employer through representatives of their own free choice, and to refrain from any or all of these activities. Sections 10(1)(a) and (c) of PERA prohibit a public employer from interfering with the Section 9 rights of its employees and from discriminating against employees in regard to hire, terms, or other conditions of employment for the purpose of encouraging or discouraging membership in a labor organization. PERA does not, however, prohibit all types of discrimination or unfair treatment, nor does the Act provide a remedy for an employer's breach of a collective bargaining agreement. Absent an allegation that the employer interfered with, restrained, coerced or discriminated against an employee for engaging in, or refusing to engage in, union or other activities protected by Section 9 of the Act, the Commission has no jurisdiction to make a judgment on the fairness of the employer's actions or to remedy its allegedly unfair conduct.

In the instant case, the charge asserts that Booker was terminated after he reported to management and campus police that he had been threatened and harassed by a supervisor. Although Booker was a union steward at the time, there is no allegation that the threats were the result of Booker having engaged in protected concerted activities, nor is there any assertion that Booker's subsequent termination constituted interference, coercion or discrimination for engaging in, or refusing to engage in, activities of the type protected by PERA. Therefore, even if the assertions set forth in the charge are true, no PERA claim has been stated and dismissal of the case on summary disposition is warranted.

For the reasons stated above, I recommend that the Commission issue the following order.

#### RECOMMENDED ORDER

The unfair labor practice charge filed by Unite HERE Local 24 against Wayne State University in Case No. C14 E-053; Docket No. 14-008982-MERC, is hereby dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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David M. Peltz  
Administrative Law Judge  
Michigan Administrative Hearing System

Dated: October 29, 2014