STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of:

ANN ARBOR PUBLIC SCHOOLS,
Public Employer-Respondent in Case No. C14 G-086

-and-

ANN ARBOR EDUCATION ASSOCIATION,
Labor Organization-Respondent in Case No. CU14 G-037

-and-

SHEILA MCSPADDEN,
An Individual-Charging Party.
_____/

APPEARANCES:

Maddin Hauser Roth & Heller, P.C., by Richard M. Mitchell, for Respondent Public Employer

White Schneider Young and Chiodini, by William F. Young, for Respondent Labor Organization

Sheila McSpadden, appearing on her own behalf

DECISION AND ORDER

On December 26, 2014, Administrative Law Judge (ALJ) Julia Stern issued her Decision and Recommended Order finding that the charges were not filed within the six-month statute of limitations and, even if timely, the charges failed to state a claim upon which relief can be granted. The ALJ found that Ann Arbor Public Schools (Employer) did not violate § 10(1)(a) and (c) of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210(1)(a) and (c) when it terminated Charging Party for insubordination. She also found that the Employer did not violate PERA by refusing or failing to return Charging Party to work under the terms of an alleged grievance settlement. The ALJ additionally held that Respondent Ann Arbor Education Association (Union) did not violate its duty of fair representation under § 10(2)(a) of PERA by failing to file and process a grievance concerning the termination. The ALJ recommended that we dismiss the charges in their entirety. The Decision and Recommended Order was served upon the interested parties in accordance with §16 of PERA.

Charging Party filed timely exceptions on January 20, 2015. Her exceptions appeared to concern the charge against the Employer and were served on the Employer, but not on the Union. The caption included only the name and case number of the charge against the Employer. The

last sentence of the exceptions states that Charging Party "did file a separate charge with separate paperwork at MERC against the Union AAEA/MEA however, No hearing date has ben [sic] sent."[1] There was no statement of service attached to the exceptions. On January 22, 2015, the Bureau of Employment Relations (BER) sent a letter to Charging Party instructing her to file a statement of service for all parties and to provide copies of all exhibits submitted at the hearing. After being informed by Union attorney William Young that he had not received the exceptions, BER staff sent a letter on February 19, 2015, to inform Mr. Young that the exceptions addressed the claims against the Employer only. A copy of the letter was sent to Charging Party.

On February 25, 2015, Charging Party filed another statement of service which stated that she served the Union on February 13, 2015. Attached to that statement of service is a letter to the Commission in which Charging Party states that she was "not dropping any charges against the Union reps or the union otherwise. The content of the exceptions/rebuttal package contains mention of 'No Union' representation." The exceptions include a sentence stating that "the Union inactivity in representation charge was filed within six months of June 25, 2014." Because Charging Party mentions the timeliness of the charge against the Union in her exceptions, and because that is the only ground relied upon by the ALJ in her finding concerning the charge against the Union, we will proceed as though Charging Party filed timely exceptions concerning her claim against the Union.

Charging Party's exceptions do not comply with Rule 176 of the Commission's General Rules, Mich Admin Code, R 423.176. Where a party's exceptions do not strictly comply with the requirements of R 176, we will consider them to the extent that we are able to discern the issues on which the party is requesting our review.[2] *City of Detroit*, 21 MPER 39 (2008); *Gov't Administrators Ass'n*, 22 MPER 61 (2009). Here, while the exceptions fail to comply with R 176 in several respects, it does appear that Charging Party believes the ALJ erred in finding that the charges were untimely.

Neither the Union nor the Employer filed exceptions, nor did they file responses to Charging Party's exceptions. No union representatives or attorneys for the Union appeared at the hearing. The ALJ's Decision states that the Union was not served with either the notice of hearing or the order directing it to file a position statement. After the hearing, the ALJ inquired as to whether the Union wished to have the hearing reopened so that it could present evidence and/or whether it wished to file a position statement. The Union submitted a position statement and stated that it did not wish to have the hearing reopened so that it could cross-examine Charging Party or present evidence and argument.

Factual Summary:

We adopt the facts as found by the ALJ and summarize them here only as necessary. Charging Party was employed as a community liaison assistant. During the course of her

[1] It is clear from the hearing transcript that ALJ Stern informed those present that both cases were before her and that her decision would "make some findings of fact and address both of these charges."

[2] That these submissions were not rejected for failure to comply with our Rules should not be viewed as an indication that we will accept such submissions in the future.

employment, she was disciplined several times. In 2011, she was terminated for behaving in a threatening manner on school property. The Union filed a grievance which resulted in Charging Party returning to work under a last chance agreement. Pursuant to the agreement, Charging Party was subject to immediate termination if she violated any work rule. The agreement also provided that if she was terminated, the Union could not file a grievance concerning whether termination was the appropriate penalty. It could, however, grieve the issue of whether Charging Party had engaged in the prohibited conduct.

On February 13, 2012, Charging Party was terminated for insubordination. The termination letter stated that she was directed to report for work rather than participate in a field trip, but that she disobeyed and went on the trip. The Union prepared a grievance which asserted that Charging Party did not participate in the field trip but instead was "using her own personal time." The copy of the grievance Charging Party received was stamped "Informational Copy," and lacked a signature or date in the box for "Disposition by Administrator." Cynthia Ryan, the Employer's Director of Human Resources, testified that she never received the grievance and never discussed the termination with any Union representatives. She added that had a grievance been filed, she is the person who would have handled it.

Charging Party testified that she was told by the Employer and a school board member that she would be reinstated with back pay. She made several inquiries to the Employer and the Union regarding the status of the "settlement." However, no settlement agreement was introduced at the hearing. Nor did Charging Party produce evidence of a grievance determination. Ryan testified that the Employer never reached an agreement with the Union to return Charging Party to work with back pay and there was no settlement agreement.

Charging Party received an e-mail from Union Regional Services Representative Robin Langley in December 2012, which stated that the Employer "would not hear" the grievance. She had no further contact with the Union until June 2014, when she met with UniServ Director George Pragosky. She testified that Pragosky took notes during the meeting, but did not fill out a grievance form and did not tell her that the Union was going to take any action. On May 27, 2014, Charging Party met with a school board member, whom she contacted, to ask why she had not received her back pay award based on the alleged grievance settlement. She testified that the school board member told her she would receive something immediately. The school board member was not called to testify.

Discussion and Conclusions of Law:

We agree with the ALJ that the charges were not timely filed. A charge must be filed within six months of the date of the action(s) alleged to be unfair labor practices. *Teamsters Local 214,* 25 MPER 72 (2012). Section 16 (a) of PERA states that "no complaint shall issue upon any unfair labor practice occurring more than 6 months prior to the filing of the charge…" The six-month statute of limitations is jurisdictional and cannot be waived. *Walkerville Rural Communities Sch,* 1994 MERC Lab Op 582; *Washtenaw Cmty Mental Health,* 17 MPER 45 (2004); *Police Officers Labor Council Local 355,* 2002 MERC Lab Op 145. The limitation period commences when the person knows, or should have known, of the alleged violation that caused the alleged injury and has good reason to believe the act was improper. *City of Detroit,*

18 MPER 73 (2005); *Huntington Woods v Wines*, 122 Mich App 650 (1983), aff'g 1981 MERC Lab Op 836. Charging Party was discharged on February 13, 2012; she filed a charge against her Employer on July 24, 2014. We agree with the ALJ that because the alleged violation occurred more than two years before the charge was filed, the charge is clearly untimely.

Charging Party's exceptions argue that the charge against the Employer was timely because it was filed "within the 6 month time frame hearing set September 25, 2014.[sic]" It appears that Charging Party is arguing that the May 27, 2014 meeting with the school board member is the date on which the statute of limitations began to run. However, that meeting took place almost 18 months after Charging Party was informed that the Employer would not consider the grievance and more than two years after Charging Party was terminated. Charging Party knew, or reasonably should have known, long before the May 27 meeting, that the Employer was not going to reinstate her or award her back pay.

We also agree with the ALJ that even if timely, the charge against the employer fails to state a claim upon which relief can be granted. Sections 10(1)(a) and (c) of PERA prohibit a public employer from discharging or otherwise discriminating against employees because they have engaged in, or refused to engage in, union activities or other concerted protected activities. As the ALJ noted, Charging Party did not allege that her termination was based upon any union activity or other concerted protected activity. Because Charging Party did not allege that the Employer interfered with, restrained, coerced, or discriminated against her for engaging in, or refusing to engage in, union or other activities protected by PERA, we have no jurisdiction to determine whether the Employer's actions violated PERA. *City of Detroit (Fire Dep't*), 1988 MERC Lab Op 561; *Detroit Bd of Educ*, 1987 MERC Lab Op 523.

The ALJ correctly determined that the charge against the Union was also untimely. Charging Party filed her charge against the Union on July 24, 2014. We agree with the ALJ that she should have reasonably concluded, after receiving Langley's e-mail in December 2012 and hearing no more from her within a reasonable time, that the Union did not intend to take any further action with respect to the grievance. It is well established that where a charge against a union is based upon the union's inaction, the statute of limitations begins to run when the charging party knew, or should have reasonably known, that the union would not act on her behalf. *Washtenaw Cmty Mental Health*, 17 MPERA 45 (2004); *Huntington Woods*, 122 Mich App 650. Charging Party claims that the charge against the Union was timely because it was filed within 6 months of June 25, 2014, the date on which she met with Pragosky. However, the ALJ correctly found that Charging Party knew, or should have known, within a reasonable time after she received the December 2012 e-mail, that the Union did not intend to take any further action on her grievance.

We agree with all findings of fact and conclusions of law made by the ALJ and, accordingly, issue the following Order.

ORDER

The unfair labor practice charges are hereby dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

/s/
Edward D. Callaghan, Commission Chair

/s/
Robert S. LaBrant, Commission Member

/s/
Natalie P. Yaw, Commission Member

Dated: March 26, 2015

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
EMPLOYMENT RELATIONS COMMISSION

In the Matter of:

ANN ARBOR PUBLIC SCHOOLS,
Public Employer-Respondent in Case No. C14 G-086/14-017946-MERC

-and-

ANN ARBOR EDUCATION ASSOCIATION,
Labor Organization-Respondent in Case No. CU14 G-037/14-017948-MERC

-and-

SHEILA MCSPADDEN,
An Individual-Charging Party.
_____/

APPEARANCES:

Maddin Hauser Roth & Heller, P.C., by Richard M. Mitchell, for Respondent Ann Arbor Public Schools

White Schneider Young and Chiodini, by William F. Young, for Respondent Ann Arbor Education Association

Sheila McSpadden, appearing for herself

DECISION AND RECOMMENDED ORDER OF ADMINISTRATIVE LAW JUDGE

A hearing in the above case was held in Detroit, Michigan on September 25, 2014, by Administrative Law Judge Julia C. Stern of the Michigan Administrative Hearing System (MAHS) for the Michigan Employment Relations Commission (the Commission). The hearing was conducted pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 and 423.216, and based on unfair labor practice charges filed by Sheila McSpadden against her former employer, the Ann Arbor Public Schools (the Employer), and her collective bargaining representative, the Ann Arbor Education Association (the Union), on July 24, 2014.

The Union did not appear at the hearing, and it was later determined that it was not served with a notice of hearing or with a copy of my order directing it to file a position statement

addressing the allegations in McSpadden's charge. After the hearing, on October 23, 2014, the Union did submit a position statement. By letter dated December 1, 2014, the Union indicated that it did not desire to have the hearing reopened so that it could present additional evidence or argument. Based on the record, including the testimony and exhibits presented at the hearing, and the arguments made at the hearing and in position statements filed by the Union and by the Employer on September 25, 2014, I make the following findings of fact, conclusions of law, and recommended order.

The Unfair Labor Practice Charges:

McSpadden was employed by the Employer as a community liaison assistant in its Vocational Technical High School and was a member of a bargaining unit of paraprofessional employees represented by the Union. On February 13, 2012, McSpadden was discharged for insubordination for allegedly going on a field trip that her building principal had told her not to attend. McSpadden contended that she did not go on the field trip and, therefore, had not disobeyed her principal's order. McSpadden asserts that the Union filed a grievance over her discharge and that, sometime prior to June 2012, the grievance was settled with an agreement that she would be returned to work with back pay.

As set out in her charges and in the facts below, between June 2012 and May 2014 McSpadden made repeated inquiries regarding the status of this settlement to the Union and also to the Employer. McSpadden contends that neither the Employer nor the Union ever told her that there had been no agreement to return her to work. McSpadden's charge against the Employer alleges that it violated PERA by discharging her when she was not found to have violated any work rule. She also alleges that the Employer violated PERA by failing or refusing to return her to work and pay her back pay in accord with the settlement agreement. Her charge against the Union alleges that it violated its duty of fair representation under PERA by failing to take action to enforce the settlement agreement.

Findings of Fact:

Two witnesses testified at the hearing, McSpadden and Cynthia Ryan. At the time of McSpadden's termination, Ryan's title was director of human resources. At the time of the hearing, it was executive director of human resources.

In 2010 or early 2011, McSpadden was terminated for allegedly behaving in a threatening manner on school property. The Union filed a grievance. On June 8, 2011, the Union and the Employer executed an agreement settling the grievance. The agreement returned McSpadden to work, but placed her on last chance status from September 6, 2011, through September 6, 2012. The agreement stated that McSpadden was subject to immediate termination if any of the following occurred:

a. Any individual is threatened on the Employer's property by McSpadden, or McSpadden threatens a co-employee off premises.

b. The safety of a student is compromised under the supervision of McSpadden.

This is to be determined at the Employers' discretion.

c. Violation of any work rule.

The agreement further provided that if McSpadden was subsequently terminated by the Employer for the above conduct, the Union would not have the right to grieve whether termination was the appropriate penalty. However, it would have the right to grieve whether McSpadden had engaged in the prohibited conduct. It was not clear from the record whether the settlement included any backpay.

On February 8, 2012, McSpadden was told to come to a meeting the following day at the Employer's administration building. McSpadden was in the employee break room waiting for the meeting to begin when Union UniServ Director Paul Morrison came in. Morrison showed her a copy of a letter terminating her employment. The letter stated that, according to the principal at McSpadden's school, McSpadden had gone on a field trip on Saturday, February 4 and Monday, February 6 after she had been instructed to report to work. Morrison asked McSpadden if she had gone on the field trip, and McSpadden said that she had not. While Morrison and McSpadden were speaking, Ryan came into the break room with the principal, Sheila Brown. Morrison asked Ryan a series of questions, and they had a discussion. At the conclusion of the discussion, Morrison told McSpadden that "she was not fired," and Morrison and Ryan left the room. However, on February 14, McSpadden received in the mail another copy of the letter Morrison had shown her in the lunchroom terminating her employment. The second letter was marked "revised" and dated February 13, 2012.

After she received the letter, McSpadden called Morrison and asked him what was going on. Morrison said he did not know, and that he would file a grievance. She then received an email from Sherry Laidlaw, the Union's executive assistant, stating that McSpadden would receive a copy of the grievance the Union had filed. Later, in the mail, McSpadden received a copy of a grievance signed by Morrison and dated February 15, 2012. The grievance stated:

> Ms. McSpadden was terminated on or about February 13, 2012 for insubordination. The facts do not support the charge of insubordination. Ms. McSpadden is accused of leaving school when directed not to. In fact, Ms. McSpadden was using her own personal time.

The copy of the grievance McSpadden received, and that she offered into evidence, was stamped "Informational Copy," and did not have a signature or date in the box on the bottom headed "Disposition by Administrator." Ryan testified that the Employer did not receive this grievance, nor was any grievance filed by the Union over McSpadden's February 13, 2012, termination. According to Ryan, she did not even discuss McSpadden's discharge with Morrison or any other Union representative after the Employer mailed the February 13, 2012, letter.

In the last week of February 2012, McSpadden called Morrison to find out when she "would be reinstated and receive back pay," but no one called her back. McSpadden called the Union office about once a month between February and June 2012 and left voicemail messages for Morrison, but no one called her back.

In June 2012, McSpadden sent a subpoena to the Employer asking for some documents for her unemployment hearing to prove that she had been at work on February 6. On about June 8, 2012, McSpadden ran into Robert Allen, then the Employer's finance director and director of operations, in a supermarket parking lot. Allen was one of the persons to whom McSpadden reported at the time of her discharge. Allen asked her about the subpoena, and told her that he thought that she had already been reinstated. McSpadden told him no, but that she was supposed to get back pay and be reinstated. Allen replied that she "would be getting all that," and that someone from the Employer's human resources office would contact her. McSpadden testified that she interpreted Allen's remarks in the parking lot to mean that there had been some sort of conversation among Employer representatives to the effect that she would be reinstated.

McSpadden testified that between June and September 2012, she continued to call the Union office and leave messages for Morrison to call her, but did not receive a return call. In early September 2012, McSpadden called Allen's office, but was told that he had left his position.

In September 2012, McSpadden met with Union Regional Services Representative Robin Langley and Linda Carter, who had replaced Morrison as UniServ Director. McSpadden told Langley that she had not been reinstated, and gave Langley several emails, including one showing that she had cancelled a dentist appointment during the week of February 6 through 10, 2012. Langley made copies of these emails. She also told McSpadden that she would contact the Employer "to set up a meeting regarding the financial award."

In November or December 2012, McSpadden emailed Ryan and asked her when she was supposed to come in and complete her paperwork to be reinstated. Ryan forwarded McSpadden's email to the Employer's Assistant Superintendent for Labor Relations, David Comsa. Sometime in December 2012, McSpadden received an email reply from Comsa in which he stated, according to McSpadden, that her email had been forwarded to him and "everything is resolved." McSpadden testified that she interpreted this to mean that Comsa mistakenly believed that she had been put back to work. She sent Comsa an email which said, "It's not resolved."

On December 20, 2012, McSpadden received an email from Langley that said, according to McSpadden, "Comsa refused to hear it." McSpadden testified that Langley's response did not make sense to her.

McSpadden testified that between December 2012 and September 2013, she left voicemail messages for Langley, but Langley did not call her back. At some point, she learned that Langley was on a leave of absence. In September 2013, she was told by the Union's office staff that there was a new UniServ Director, George Przydoski. McSpadden left a message for him, but he did not call her back.

According to McSpadden, she left two messages for Przydoski on February 26, 2014, that were not returned. Somewhere around the end of May 2014, McSpadden contacted a member of the Employer's school board. On May 27, 2014, she met with the school board member at a restaurant. McSpadden testified that she asked him if he had "researched her." He said yes, but

then asked her what she wanted. She told him that she had not received any settlement or award from her grievance. The board member took notes while she was telling her story. He said he was sorry for what had transpired, and that "she would be receiving something immediately."

McSpadden called and left messages for Przydoski on May 29. On June 24, 2014, she received a call from Przydoski. Przydoski apologized for not returning her call. On June 25, she and Przydoski met. Przydoski came into the meeting with a notepad which had a list of grievance remedies, i.e., lost wages and benefits, reinstatement to a suitable position with suitable duties, no loss of seniority. Przydoski told her that he needed to give information to Langley's replacement.

Discussion and Conclusions of Law:

Charge Against the Employer

Section 9 of PERA protects the rights of public employees to form, join, or assist labor organizations, to negotiate or bargain with their public employers through representatives of their own free choice, to engage in lawful concerted activities for mutual aid or protection, and to refrain from any or all of these activities. §§10(1)(a) and (c) of PERA prohibit a public employer from interfering with the §9 rights of its employees and from discharging or otherwise discriminating against its employees because they have engaged in, or refused to engage in, union activities or other concerted protected activities. However, PERA does not prohibit all types of unfair treatment of a public employee by his or her employer. Nor does it require a public employer to have just cause for discharging an employee. Absent an allegation that the employer interfered with, restrained, coerced, or discriminated against the employee for engaging in, or refusing to engage in, union or other activities of the type protected by PERA, the Commission has no jurisdiction to make a judgment on the fairness of the employer's actions See, e.g., *City of Detroit (Fire Dep't*), 1988 MERC Lab Op 561, 563-564; *Detroit Bed of Ed*, 1987 MERC Lab Op 523, 524.

Section 16(a) of PERA states that the Commission lacks jurisdiction to find an unfair labor practice occurring more than six months prior to the filing of the charge with the Commission and the service of a copy thereof upon the party against whom the charge is made. An unfair labor practice charge that is filed more than six months after the commission of the alleged unfair labor practice is untimely. The limitation contained in §16(a) of PERA is jurisdictional and cannot be waived. *Washtenaw Cmty Mental Health*, 17 MPER 45 (2004); *Police Officers Labor Council, Local 355*, 2002 MERC Lab Op 145; *Walkerville Rural Cmty Schs*, 1994 MERC Lab Op 582. The six month period begins to run when the charging party knows, or should have known, of the alleged violation, i.e. when it knows of the injury and had good reason to believe that it was improper. *City of Detroit,* 18 MPER 73 (2005); *AFSCME Local 1583*, 18 MPER 42 (2005); *Huntington Woods v Wines*, 122 Mich App 650 (1983), aff'g 1981 MERC Lab Op 836.

McSpadden alleges that the Employer did not have good cause to terminate her in February 2012. She asserts that she was not guilty of insubordination because she did not do what she was accused of doing, i.e., going on a field trip on February 4 and February 6, 2012.

She points out that the Employer never proved that she did go on the field trip. McSpadden's discharge occurred more than two years before she filed her charge, so this allegation is clearly untimely. Moreover, as discussed above, PERA does not provide a cause of action for unjust discharge, per se. I conclude that, whether or not McSpadden went on the field trip, her allegation that she was unjustly terminated does not state a claim against the Employer upon which relief can be granted under PERA.

McSpadden also alleges that the Employer violated PERA by refusing or failing to return her to work under the terms of an alleged grievance settlement. Respondent Human Resource Director Ryan denied that there was any settlement, and McSpadden presented no persuasive evidence of an agreement between the Employer and Union to return her to work after her February 13, 2012, discharge. Even if there were such an agreement between the Union and the Employer, however, I find that the Employer's failure to comply with this agreement did not constitute unlawful interference with McSpadden's rights under §9 of PERA or unlawful discrimination against her in violation of §10(1)(c) of that Act.[3] I conclude, therefore, that McSpadden's allegation that the Employer violated her rights under PERA by refusing or failing to comply with a grievance settlement also does not state a claim upon which relief can be granted under PERA. I recommend that the Commission dismiss McSpadden's charge against the Employer on the grounds that it was not timely filed and because it does not allege a violation of PERA.

Charge Against the Union

A union representing public employees owes these employees a duty of fair representation under §10(2)(a) of PERA. The union's legal duty under this section is comprised of three distinct responsibilities: (1) to serve the interests of all members without hostility or discrimination toward any; (2) to exercise its discretion in complete good faith and honesty, and (3) to avoid arbitrary conduct. *Goolsby v Detroit*, 419 Mich 651, 679(1984); *Eaton Rapids EA*, 2001 MERC Lab Op 131,134. See *Vaca v Sipes*, 386 US 171, 177 (1967). "Arbitrary" conduct includes (a) impulsive, irrational or unreasoned conduct, (b) inept conduct undertaken with little care or with indifference to the interests of those affected, (c) the failure to exercise discretion, and (d) extreme recklessness or gross negligence. *Goolsby* at 682. A union may violate its duty of fair representation if it acts with reckless disregard for the interests of its members. For example, in *Goolsby* a union's unexplained failure to meet a time deadline for processing a grievance was held to constitute a breach of its duty when this failure resulted in the dismissal of the grievance.

McSpadden alleges that the Union violated its duty of fair representation by failing to take action to enforce a grievance settlement returning her to work. As noted above, McSpadden did not present persuasive evidence that there was any agreement by the Union and Employer that McSpadden would be reinstated after her February 13, 2012, termination. Rather, the evidence indicates that the Union prepared a grievance and told McSpadden that it would be

[3] A public employer's repudiation of a grievance settlement may, under certain circumstances, violate its duty to bargain in good faith and §10(1)(c) of PERA. See *Oakland University*, 23 MPER 86 (2010). However, an individual charging party does not have standing to assert a violation of §10(1)(e). *Coldwater Cmty Schs,* 1993 MERC Lab Op 94.

filed, and then either did not file it or did not process it through the grievance procedure. The Union representative responsible, UniServ Director Paul Morrison, left his position shortly thereafter.

However, these actions, or inaction, occurred more than two years before McSpadden filed her charge. It is well established that where a complaint against a union is based upon the union's inaction, the statute of limitations begins to run when the charging party knew or should have reasonably realized that the union would not act on his or her behalf. *Washtenaw Cmty. Mental Health*, 17 MPERA 45 (2004); *Huntington Woods*, *supra.* According to McSpadden, she discussed her grievance with Union Regional Representative Langley in September 2012, and Langley agreed to set up a meeting with the Employer. In December 2012, McSpadden received an email from Langley stating that the Employer "would not hear" the grievance. McSpadden heard no more from the Union until June 2014, when UniServ Director Przydoski called her to set up a meeting. I find that McSpadden should have reasonably concluded, after she received Langley's December email and then heard no more from her within a reasonable period, that the Union did not intend to take any further action with respect to the grievance. I conclude, therefore, that McSpadden's charge against the Union was untimely filed under §16(a) of PERA. I recommend that the Commission dismiss the charge on this basis, and that it issue the following order.

RECOMMENDED ORDER

The charges are dismissed in their entireties.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

_____

Julia C. Stern
Administrative Law Judge
Michigan Administrative Hearing System

DATED: December 26, 2014