

State of Maryland
State Labor Relations Board

In the matter of:)	
)	
Dale Cecil)	
)	
)	
Petitioner,)	
)	
v.)	SLRB Case No.
)	2023-U-03
)	
)	
American Federation of State, County & Municipal Employees,)	
)	
)	
Respondent.)	
)	

Board Dismissal for Untimely Filing

On September 20, 2022, Petitioner Dale Cecil (Cecil), through attorney representation, filed an Unfair Labor Practice Complaint (ULP) against the American Federation of State, County, & Municipal Employees (AFSCME) pursuant to State Labor Relations Board (SLRB) Regulations at COMAR 14.32.05.

In his Complaint, Petitioner states that he was a Heavy Equipment Maintenance Technician III employed within the Maryland Department of Transportation, State Highway Administration (SHA), and a member of Bargaining Unit A represented by AFSCME.

Petitioner claims that AFSCME represented him following disciplinary actions taken against him by the SHA in August and September 2021, and that AFSCME negligently missed a filing deadline to appeal his discipline with the Office of Administrative Hearings (OAH). Petitioner states that, as a result of missing this deadline, OAH dismissed his appeal on December 22, 2021, and that he was subsequently terminated. Petitioner alleges that AFSCME's actions were malpractice, in breach of AFSCME's obligations under the collective bargaining agreement, and a violation of AFSCME's duty of fair representation.

SLRB regulations at COMAR 14.32.05.01(C) state,

The complaint shall be filed with the Board within 90 days from the later of the alleged violation or following the time that a reasonable person would, upon exercising due diligence, have discovered

the occurrence of the alleged violation.

As indicated above, OAH dismissed Petitioner's appeal on December 22, 2021. This matter was filed on September 20, 2022, two hundred and seventy-two days after the OAH appeal was dismissed. Accordingly, Petitioner's Complaint is hereby dismissed as untimely.

Finally, Petitioner claims that the statute of limitations for the filing of unfair labor practice complaints is 6 months as set forth under Section 5-120 of MD Code, Courts and Judicial Proceedings. Section 5-101 of this title ("Civil Actions") states generally, "[a] *civil action* at law shall be filed within three years from the date it accrues unless another provision of the Code provides a different period of time within which an action shall be commenced." (Emphasis added). An exception to this three year limitations period is found in Section 5-120, which, shortens this period to 6 months for causes of action involving violations of the duty of fair representation and violations of collective bargaining agreements. We note that these sections apply only to civil actions brought before a court and not to unfair labor practice complaints brought before the SLRB, and do not impact the 90 day statute of limitations established under COMAR 14.32.05.01(C) above.

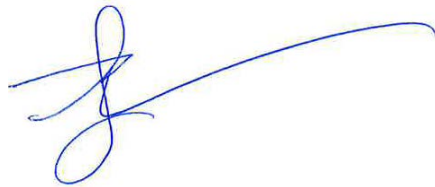
Annapolis, MD

ISSUED: December 16, 2022

BY ORDER OF THE STATE LABOR RELATIONS BOARD:



Richard A. Steyer, Chair



LeRoy A. Wilkison, Member



Nancy J. Courson Cooke, Member



Olivia D. Vaughns, Member

Appeal Rights

Any party aggrieved by this action of the Board may seek judicial review in accordance with Title 10 of the State Government Article, Annotated Code of Maryland, Section 10-222, and Maryland Rule 7-201, *et. seq.*