

State of Maryland
State Higher Education Labor Relations Board

In the matter of:)
)
)
American Federation of State,)
County and Municipal Employees,))
)
Complainant/Petitioner,))
)
v.) SHELRB ULP Case No. 2002-02
) Opinion No. 4
University of Maryland)
College Park,)
)
Respondent/Employer.)
)
)
_____)

DECISION AND ORDER

On March 22, 2002, the American Federation of State, County & Municipal Employees ("AFSCME"), filed with the Board an Unfair Labor Practice Petition ("ULP") against the University of Maryland College Park (UMCP). AFSCME alleged that UMCP refused to bargain over the decision to increase parking permit fees on campus and the effect of such an increase on bargaining unit employees' terms and conditions of employments. By such actions, AFSCME asserts that UMCP is refusing to bargain in good faith as defined and prescribed under the Title 3 of the State Personnel and Pensions Article (Collective Bargaining Statute) §3-101(c) and 3-502(a), and thereby has committed an unfair labor practices as defined under the Board's regulations, i.e., COMAR 14.30.07.01(A) and (H)^{1/}.

^{1/} Section 3-101(c) of Title 3 of the State Personnel and Pensions Article provides as follows:

(c) "Collective bargaining" means good faith negotiations by authorized representatives of employees and their employer with the intention of:

- (1) Reaching an agreement about wages, hours, and other terms and conditions of employment; and

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UMCP filed a response on April 12, 2002, denying that by the acts and conduct alleged it has violated its duty to bargain. UMCP also raised affirmative defenses including contentions that the ULP is untimely, the allegations are moot, and that the matter does not present an existing case or controversy.^{2/}

On June 27, 2002, the Board heard oral arguments from the parties. Following the Board's deliberations, the Board informed the parties that material issues of fact were not in dispute. Rather, the case turned on the parties' different interpretation of their respective duties under the Collective Bargaining Statute. The Board advised the parties that it would treat the case as a matter of summary judgment and issue its Decision and Order.

Subsequently, the Board received several correspondences from the parties' representatives which, most significantly, apprised the Board of the following: (1) that UMCP had withdrawn its request that the Board of Regents approve its proposed increase in parking permit fee increase; (2) that the parties are willing and plan to engage in collective bargaining over the parking permit fee increase; and (3) that UMBC would enter into an agreement to this effect. Based on this development, Board Member Cooperman, on behalf of the Board, conducted a conference call with the parties. During that meeting, the parties jointly requested that the Board hold the case in abeyance to allow the parties to resolve the dispute. Given the posture of the case and the Board's strong interest in promoting the voluntary efforts of the parties to settle or adjust disputes, the Board delayed issuing its Decision in this case.

On August 9, 2002, the Executive Director, on behalf of the Board, sent a letter to the parties requesting the

(2) Incorporating the terms of the agreement in a written memorandum of understanding.

Section 14.30.07.02H of the Board's regulations provides as follows:

The following acts by an employer, or its agents or representatives, are unfair labor practices:

....H. Refusing to bargain in good faith with the exclusive bargaining representative;

^{2/} Additional pleadings and documentary evidence were filed by both parties through June 18, 2002.

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status of their collective bargaining and efforts to resolve the dispute voluntarily. Through this means, AFSCME was provided an opportunity to withdraw its ULP if it deemed that action appropriate. By letter dated August 12, 2002, AFSCME informed the Board that negotiations have been ongoing. AFSCME further stated that UMCP had provided AFSCME with a substantive proposal on the disputed parking permit fee increase, the subject of UMCP's asserted refusal to bargain. However, AFSCME advised the Board that it was "disinclined to withdraw its [ULP] Petition" and invited the Board to decide if the matter is now moot.

The sole allegation made by AFSCME in its ULP asserts a refusal by UMCP to bargain in good faith over its decision to increase parking permit fees. However, it is now clear, and AFSCME acknowledges, that since the filing of the ULP, AFSCME and UMCP have commenced, and are currently engaged in, collective bargaining over the very subject matter serving as the basis of the ULP. UMCP's withdrawal of its decision to increase the parking permit fee and decision to engage in collective bargaining with AFSCME over this matter is the very relief AFSCME would have been entitled to if it had prevailed. In view of the above, we hereby determine that the issues presented by the ULP are now moot. In lieu of AFSCME's unwillingness to withdraw the ULP, it is hereby dismissed.

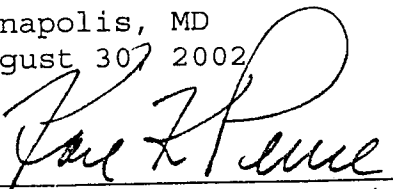
ORDER

IT IS HEREBY ORDERED THAT:

The Unfair Labor Practice Petition in Board Case No. 2002-02 is dismissed as moot.

BY ORDER OF THE STATE HIGHER EDUCATION LABOR RELATIONS BOARD

Annapolis, MD
August 30, 2002



Karl K. Pence, Executive Director