

State of Maryland
Higher Education Labor Relations Board

In the matter of:)	
)	
Cheryl Summers Hain,)	
)	
Petitioner,)	SHELRB ULP Case No.
)	ULP 2007-06
v.)	Opinion No. 24
)	
American Federation of State,)	
County & Municipal Employees,)	
)	
Respondent)	
)	

Dismissal for Failure to Submit a Claim in a Timely Manner

On May 2, 2007, Petitioner Cheryl Summers Hain filed an unfair labor practice complaint before the State Higher Education Labor Relations Board (SHELRB, Board), naming the American Federation of State, County & Municipal Employees (AFSCME), as Respondent. In her complaint, Ms. Hain alleges that AFSCME has breached its duty of fair representation (COMAR § 14.30.07.02(E)) by agreeing to a provision in the Memorandum of Understanding (MOU) with the University of Baltimore (Ms. Hain’s employer) that allegedly restricts unit members’ ability to participate in the Shared Governance program on campus.

Ms. Hain’s complaint is deficient in that it is not filed in a timely manner before the Board. The MOU was effective on June 23, 2004 and Ms. Hain admits in the petition that she was “aware of the restriction . . . since the inception of the MOU in 2004. . .” At that time, the SHELRB regulations at COMAR §14.30.07.04(A) required that petitions be filed within 30 days of knowledge of the occurrence.¹ Accordingly, Ms. Hain should have filed her petition by July 24, 2004, in order for it to have been considered timely filed.

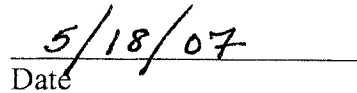
¹COMAR §14.30.07.04(A) was amended effective March 13, 2006, to extend the limitations period from 30 days to 90 days. However, even under the current limitations period, the petitions would be time barred since it was not filed within 90 days of Ms. Hain’s knowledge of the allegedly offending section of the MOU in June 2004.

Ms. Hain asserts that she was not aware of labor regulations governing these issues until she recently did some legal research, and that date (March 10, 2007) should be the applicable date for purposes of the statute of limitations. However, our regulations require that the complaint be filed within 30 days of knowledge of the "occurrence," not knowledge of the applicable regulations. Moreover, while I am sympathetic to Ms. Hain's pro se status, it is a universally accepted maxim of law that "ignorance of law is no excuse." In this case, it would be manifestly unfair to allow Ms. Hain to extend the limitations period from 30 days to nearly three years.

Accordingly, this complaint is administratively dismissed because the Petitioner failed to submit it in a timely manner as required by Board regulations.



Erica L. Snipes, Executive Director
State Higher Education Labor Relations Board


Date