State of Maryland
State Labor Relations Board

In the matter of:	)	
Maryland State Employees Union,	)	
American Federation of State,	)	
County and Municipal Employees,	)	
Council 92 and International	)	
Brotherhood of Teamsters	)	SLRB ULP Case No. 05-U-04
	)	Opinion No. 5
Petitioners,	)	(OAH Case No. SLRB-X-01-05-35398)
	)	
v.	)	
	)	
Maryland State Police	)	
	)	
Respondent	)	

Decision Holding Case in Abeyance

This case is before the Board on review of Administrative Law Judge (ALJ) Sondra L. Spencer's Proposed Decision, granting summary judgment in favor of the Maryland State Employees Union, American Federation of State, County and Municipal Employees, Council 92 and International Brotherhood of Teamsters (collectively, the "Union"). The ALJ found that the Maryland State Police ("MSP") committed an unfair labor practice by making unilateral changes to the terms and conditions of employment without first engaging in good faith bargaining with the Union.

On July 6, 2005, the SLRB delegated its hearing authority to the OAH where the case was assigned to ALJ Sondra Spencer. The MSP filed a motion for summary judgment and the Union filed a cross motion for summary judgment. Judge Spencer issued a recommended ruling in favor of the Union, finding that the MSP had committed an unfair labor practice by changing the holiday leave schedule for certain employees without first bargaining with the Union. The MSP filed exceptions to this decision, asserting that they were privileged to make such changes because the parties were at impasse in negotiations.

The State Labor Relations Board has reviewed the ALJ's decision, together with the MSP's exceptions and the Union's responses to those exceptions. However, we find that we must hold a decision on this case in abeyance, pending a decision in related litigation in the Court of Special Appeals, *Maryland State Employees Union, AFSCME, Council 92 v. Robert L. Ehrlich, Jr.* (SLRB ULP Case No. 05-U-01; Cir. Case No. 24-C-05-003451). In that case, this Board considered whether the State failed to bargain in good faith by requiring, as a condition precedent to negotiations, that the Union agree to certain ground rules before commencing bargaining over mandatory subjects of bargaining. The Board found that the Union bargained in bad faith by refusing to agree to such ground rules. Therefore, the Board found that the State's

subsequent changes to working conditions without bargaining were lawful.

However, the Circuit Court for Baltimore City rejected this Board's decision, finding instead that "nothing in the statutory language of the case relied upon by the State supports the State's argument that the Union's refusal to agree to this ground rule is evidence of bad faith." The State filed an appeal before the Court of Special Appeals, and briefing is due to occur in May 2006.

These two cases are related because they involve the same threshhold issue-- i.e. whether the parties had reached impasse over the ground rules before making unilateral changes to conditions of employment. Because the Circuit Court reached a different conclusion on that issue than the State Labor Relations Board, we will await the decision of the Court of Special Appeals before deciding this case.[1] For reasons of judicial economy, therefore, this case is held in abeyance until that time.[2]

ORDER

IT IS HEREBY ORDERED THAT:

Consistent with our Decision, this case is held in abeyance until such time as the Court of Special Appeals has the opportunity to decide the related litigation in *Maryland State Employees Union, AFSCME, Council 92 v. Ehrlich* (SLRB ULP Case No. 05-U-01; Cir. Court No. 24-C-05-003451). This Board shall reopen this case after that decision is issued.

BY ORDER OF THE STATE LABOR RELATIONS BOARD
Cecilia Januszkiewicz, Member
Gail Booker Jones, Member
Sherry Lynn Mason, Member
Laird Patterson, Member
Allen G. Siegel, Member

Annapolis, MD
April 24 , 2006

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 § 10-222 and MD R CIR CT Rule 7-201 et seq.

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[1] We note that the ALJ erred in finding that the MSP was not the State for bargaining purposes. It is clear that, under the Maryland Code (1) the MSP is a "principal department of State government," and (2) the State represents the MSP (as well as other state agencies) in bargaining. See Maryland Code, Public Safety Article § 2-201, State Government Article Sect. §§ 8-201, 8-201(b)(16), 8-203(a)-(c)).

[2] In so deciding, the Board does not pass on the merits of the case at this time.