

STATE OF MARYLAND
PUBLIC SCHOOL LABOR RELATIONS BOARD

IN THE MATTER OF

*

DONNA EVANS,
Charging Party,

*

PSLRB Case No.
SV 2012-07

*

v.

*

MONTGOMERY COUNTY
EDUCATION ASSOCIATION,
Charged Party.

*

*

DECISION AND ORDER DENYING REQUEST FOR RELIEF AND GRANTING
MOTION TO DISMISS

I. INTRODUCTION

On March 5, 2012, Donna Evans (“Evans”) filed Form PSLRB-05, “Charge of Violation of Title 6, Subtitle 4 or Subtitle 5, of the Education Article” with the Public School Labor Relations Board (“PSLRB”). Form PSLRB-05 reflects the authority granted to the PSLRB by Section 2-205 (e)(4)(i) of the Education Article to “decide any controversy or dispute arising under Title 6, Subtitle 4 or Subtitle 5 of this Article.”

In her charge, Evans alleges that her union, the Montgomery County Education Association (“MCEA”), breached its “Duty of Fair Representation” in violation of Section 6-407(b) of the Education Article of the Annotated Code of Maryland. Evans charges MCEA with arbitrary and bad faith conduct in denying her credits from a Sick Leave Bank (“SLB”) administered jointly by her employer,

Montgomery County Public Schools (“MCPS”), and MCEA. Evans claims that “no explanation was given [for the denial],” and that the denial was based on discrimination because she was “not treated equally to other union members with physical disabilities....”

As a remedy, Evans seeks damages of one year’s pay, reimbursement of COBRA benefits and other costs, and one year’s pay for punitive damages.

It is the position of MCEA that (1) the charge is untimely, (2) the Duty of Fair Representation charge cannot be supported by the facts, and (3) that MCPS should be made a part of these proceedings.

II. ANALYSIS

As with the companion case, SV 2012-08, filed against MCPS, the PSLRB need not for present purposes reach the merits of Evans’ charge against her union because we agree with MCEA that the charge filed by Evans on March 5, 2011, is untimely in that it was filed seven (7) months beyond the allowable 60 day time limit. See COMAR 14.34.02.01 B. The charge must therefore be dismissed.

The evidence in this matter reveals that Evans knew on or about August 30, 2011, that her request for credits from the SLB was denied. In this regard, Evans, in her charge acknowledges that “I received the application back rejected....” And, according to evidence submitted in her companion case, SV 2012-08, Evans clearly knew of her

SLB denial prior to January 4, 2012, since she asserted it in her complaint filed with the Maryland Commission on Civil Rights on November 15, 2011.

On the cover sheet of Form PSLRB-05, it is clearly stated that “In order to be timely, a charge must be filed with the Executive Director of the PSLRB within sixty (60) days after the charging party knew, or reasonably should have known, of the statutory violation alleged.” Form PSLRB-05 was filed by Evans with the PSLRB on March 5, 2012. Sixty (60) days prior to that date is January 4, 2012. Therefore, alleged violations that Evans knew of or reasonably should have known of, which pre-dated January 4, 2012, are time-barred and not properly before the PSLRB.

Based on the above, it is clear that Evans’ complaint involves an incident clearly known to her that took place well before sixty (60) days prior to her filing her charge with the PSLRB.

As a result, Evans’ charge is untimely and for that reason must be dismissed.

ORDER

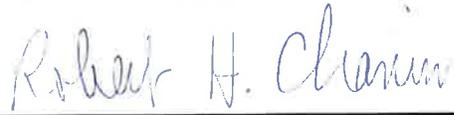
Evans’ request for relief is DENIED, and MCEA’s Request for Dismissal is GRANTED.¹

¹ MCEA’s Motion to Implead MCPS is moot and need not be ruled upon as a result of this Decision and Order.

BY ORDER OF THE PUBLIC SCHOOL LABOR RELATIONS BOARD



Seymour Strongin, Chairman



Robert H. Chanin, Member



Charles I. Ecker, Member



Donald P. Kopp, Member



Stuart O. Simms, Member

Glen Burnie, MD

May 15, 2012

APPEAL RIGHTS

Any Party aggrieved by this action of the PSLRB may seek judicial review in accordance with Title 10, Subtitle 2 of the State Government Article, Annotated Code of Maryland (Administrative Procedure Act – Contested Cases) and Maryland Rules, CIR CT Rule 7-201 et seq. (Judicial Review of Administrative Agency Decisions).