

STATE OF MARYLAND  
PUBLIC SCHOOL LABOR RELATIONS BOARD

IN THE MATTER OF: \*

SCOTT A. JONES, \*

Charging Party, \*

and \* PSLRB Case No. SV-13-10

ROBERT JAY KESSLER, \*

Charged Party. \*

\* \* \* \* \*

DECISION AND ORDER

A. INTRODUCTION

On December 18, 2012, Scott A. Jones (“Jones”), a non-certificated mail room driver employed by the Baltimore City Board of School Commissioners (“School Board”) filed a “Charge of Violation of Title 6, Subtitle 4 or Subtitle 5, of Education Article” with the Public School Labor Relations Board (“PSLRB”).<sup>1</sup> In his Charge, Jones alleges that he was improperly disciplined for misdelivering mail on his route. Named as the “Charged Party” is Robert Jay Kessler (“Kessler”), identified by Jones as “Hearing Examiner, School Board.”<sup>2</sup>

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<sup>1</sup> As a non-certificated employee, Jones’ Charge falls under Subtitle 5.

<sup>2</sup> Though nominally brought as an action against Kessler, the Charge was apparently intended to be filed against the School Board and will be treated as such by the PSLRB. See *Education Association of St. Mary’s County and Dr. Michael Martirano*, PSLRB Case No. SV-12-05 (March 30, 2012) (charge not permitted against county superintendent for actions taken in his capacity as representative of public school employer).

## B. POSITIONS OF THE PARTIES

Jones contends that inaccurate information was presented at a hearing involving his three-day suspension without pay. He further alleges that the hearing process was unfair in that no one has properly considered his side of the story.

The School Board maintains that Jones has failed to allege any violations of Title 6, Subtitle 5 of the Education Article, and that the PSLRB does not have jurisdiction over Jones' disciplinary appeal. According to the School Board, such an appeal is subject to the provisions of sections 4-205(c) and 6-201 of the Education Article, and therefore within the exclusive jurisdiction of the Maryland State Board of Education ("MSBE").

## C. ANALYSIS

Section 6-512 of the Education Article provides that "[a] public school employer and employee organization may not interfere with, intimidate, restrain, coerce, or discriminate against any public school employee because of the exercise of his rights under §§ 6-503<sup>3</sup> and 6-504<sup>4</sup> of this subtitle."<sup>5</sup>

Here, Jones has failed to submit information establishing how his rights under this Subtitle were violated. In other words, Jones has not alleged that the School Board took action against him based upon his participation (or refusal to participate) in

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<sup>3</sup> Section 6-503 provides that "[p]ublic school employees may form, join, and participate in the activities of employee organizations of their own choice for the purpose of being represented on all matters that relate to salaries, wages, hours, and other working conditions."

<sup>4</sup> Section 6-504 provides that a "public school employee may refuse to join or participate in the activities of employee organizations."

<sup>5</sup> Though Jones' Charge does not specify which provisions of Subtitle 5 were allegedly violated, as a non-certificated employee, his claims presumably arise under section 6-503 or 6-504.

activities of an employee organization concerning matters relating to “salaries, wages, hours, and other working conditions.”

Thus, while the PSLRB clearly has authority to decide “any controversy or dispute arising under” Title 6, Subtitle 5,<sup>6</sup> Jones has not alleged any facts that could reasonably be construed as asserting a violation of his rights under this Subtitle. Absent such factual allegations, the Charge must be dismissed.

ORDER

IT IS HEREBY ORDERED THAT THE CHARGE IN THE INSTANT MATTER, PSLRB Case No. SV-13-10, IS DISMISSED.

BY ORDER OF THE PUBLIC SCHOOL LABOR RELATIONS BOARD



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Seymour Strongin, Chairman



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Robert H. Chanin, Member



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Charles I. Ecker, Member

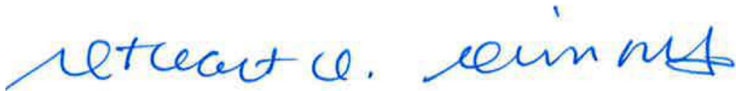
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<sup>6</sup> See Md. Code Ann., Educ. § 2-205(4)(i) (“The Public School Labor Relations Board shall decide any controversy or dispute arising under Title 6, Subtitle 4 or Subtitle 5 of this article.”); see also Md. Code Ann., Educ. § 6-806(a) (“The Board shall administer and enforce the provisions of Subtitles 4 and 5 of this title.”).



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Donald P. Kopp, Member



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Stuart O. Simms, Member

Glen Burnie, MD  
March \_\_\_\_, 2013

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, Sec. 10-222 (Administrative Procedure Act—Contested Cases), and Maryland Rules CIR CT Rule 7-201 *et seq.* (Judicial Review of Administrative Agency Decisions).