

State of Maryland
State Higher Education Labor Relations Board

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|---------------------------------|---|----------------------|
| In the matter of: |) | |
| <i>Martin Lavon Josie</i> |) | SHELRB ULP |
| |) | Case No. ULP 2017-02 |
| Petitioner |) | |
| |) | |
| v. |) | |
| |) | |
| <i>Coppin State University,</i> |) | |
| |) | |
| Respondent |) | |
| |) | |

Executive Director’s Investigative Report & Recommended Determinations

On March 13, 2017, Petitioner Martin Lavon Josie (Josie) filed an unfair labor practice (ULP) petition before the State Higher Education Labor Relations Board (SHELRB, the Board) against Coppin State University (CSU, the University). The Executive Director of the SHELRB sought a response to the petition from CSU, which was filed on April 5, 2017. Unsolicited by the Board office, the following submissions were also received from the parties:

- (1) Reply to CSU’s response/Request for Dismissal, filed by Mr. Josie on April 9, 2017.
- (2) CSU’s response to Petitioner’s Reply to CSU’s Request for Dismissal, filed by CSU on April 13, 2017.
- (3) Petitioner’s Reply to CSU’s April 13, 2017 response, filed by Mr. Josie on April 15, 2017.

Pursuant to SHELRB Regulations (COMAR §14.30.07.04(F)), the Executive Director must investigate allegations contained in a properly filed ULP petition to determine whether probable cause exists for the SHELRB to proceed on the case. After having reviewed the pleadings, exhibits and documentary evidence from both parties, in addition to conducting my own investigation, and reviewing applicable statutory and regulatory provisions regarding matters brought before the SHELRB, I hereby find and recommend to the full membership of the SHELRB that this ULP petition be dismissed for lack of jurisdiction, as discussed in this report and recommendation.

Undisputed Facts

The parties do not dispute that the SHELRB has certain duties under the Maryland Code, State Personnel & Pensions Article, Section 3-2A-05. Further, the parties do not

dispute that the Petitioner, Mr. Josie, is an employee at CSU, and that at question in this filing is a dispute involving compensation to Mr. Josie for the pay period 3/1/17 through 3/17/17.

Disputed Items

Based on the filings, the parties disagree with the appropriateness of Mr. Josie's unfair labor practice filing, and the relief due to Mr. Josie if the Board were to issue an opinion in his favor.

Petitioner's Position/Information

Mr. Josie alleges that CSU acted in breach of contract when it delayed and inappropriately issued his compensation for the work period from 3/1/17 through 3/17/17. Mr. Josie argues that he has been employed in the same capacity for CSU (as an Adjunct Instructor/Professor) for eleven years, that this most recent compensation problem is not the first time CSU has failed to pay him in a timely and appropriate manner, and that his pay should be processed consistently and appropriately, given his long standing employment with the University. Mr. Josie argues that for the period in question noted here, he should have been compensated in the amount of \$1390.86, but was instead paid only \$423.31. In addition to being the incorrect amount, Mr. Josie also alleges that his payment was not timely issued to him—on the timeliness issue, Mr. Josie notes that CSU characterized the late payment as an "oversite." [sic]

Respondent's Position/Information

In its response, CSU argues that the SHELRB does not have authority to hear Mr. Josie's claim. CSU argues that disputes regarding salary/compensation (existing or reconciled) are not identified as an unfair labor practice in State Personnel & Pensions Article, Section 3-306(a). Further, CSU argues that the Board's authority to hear unfair labor practice matters only extends to certain types of employees within the University System of Maryland. Those employees are noted and described in State Personnel & Pensions Article, Section 3-102(b), and faculty members within the University System of Maryland are specifically excluded from the Board's authority under Section 3-102(b)(9)(iii). By his own filing, CSU states that Mr. Josie identifies himself as an adjunct instructor/professor, therefore CSU argues that the Board does not have jurisdiction over the claims he alleges.

Further Filings Received


Mr. Josie filed a reply, dated April 9, 2017, to CSU's response and request for dismissal. In this reply, Mr. Josie alleges that certain of CSU's references to the Maryland Collective Bargaining Law are either incomplete or inapplicable to Mr. Josie. Further, Mr. Josie continues to assert that CSU has engaged in delaying his wages on several occasions over the last twelve years. Mr. Josie also argues that CSU is arguing, in another independent matter, that the State has engaged in underfunding of it (CSU), but now asks for dismissal

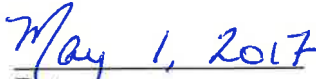
when it (CSU) is doing the same thing to an employee. On April 13, 2017, CSU filed a reply to Mr. Josie's April 9, 2017 filing. CSU argued that in the April 9, 2017 filing, Mr. Josie failed to address the lack of jurisdiction for which CSU alleges that this matter before the SHELRB should be dismissed. CSU argued that the jurisdictional argument makes Mr. Josie's further statements irrelevant. Mr. Josie filed a final response on April 15, 2017, alleging that CSU is ignoring wage/compensation laws, employee rights, contract law, and state labor law by requesting that this matter be dismissed and by failing to pay Mr. Josie on time and in full.

Analysis and Recommendation

Through evaluation of the filings and written materials gathered during the course of this investigation, and discussed in the above analysis, the Executive Director finds and recommends that this matter be dismissed for lack of jurisdiction. Mr. Josie is employed by CSU as an adjunct educator, and therefore, part of a class of employees not subject to the statute and regulations applicable to the SHELRB. State Personnel & Pension Article, Section 3-102(b)(9)(iii).

Pursuant to SHELRB Regulations at COMAR §14.30.07.02(G) – (I), this report will be sent to the full membership of the SHELRB as well as to the parties. Any party aggrieved by the Executive Director's Report and Recommended Determinations is permitted to request reconsideration by the full board **no later than fifteen days** after the issuance of this report.


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


Date