

STATE OF MARYLAND
PUBLIC SCHOOL LABOR RELATIONS BOARD

IN THE MATTER OF: *
YVONNE WILSON, *
Charging Party, *
v. * PSLRB Case SV 2018-07
JIM CULLEN, ADMINISTRATOR, *
AMERICAN FEDERATION OF STATE, *
COUNTY AND MUNICIPAL, *
EMPLOYEES, LOCAL 2250, *
and *
AMERICAN FEDERATION OF STATE, *
COUNTY AND MUNICIPAL, *
EMPLOYEES, LOCAL 2250, *
Charged Parties. *

* * * * *

**DECISION AND ORDER DENYING REQUEST FOR RELIEF AND DISMISSING
CHARGE**

On December 6, 2017, Yvonne Wilson filed a CHARGE OF VIOLATION OF TITLE 6, SUBTITLE 4 OR SUBTITLE 5, OF EDUCATION ARTICLE (Form PSLRB-05) with the Public School Labor Relations Board (“PSLRB”). Form PSLRB-05 reflects the authority granted to the PSLRB by the Education Article of the Annotated Code of Maryland to “decide any controversy or dispute arising under Title 6, Subtitle 4 or 5 of this Article.” Md. Code Ann., Educ. § 2-205(e)(4)(i).

In her Charge, Ms. Wilson claims that the American Federation of State, County and Municipal Employees, Local 2250 (“AFSCME, Local 2250”), by and through its representative, Jim Cullen, Administrator of AFSCME, Local 2250, violated Section 6-509(b) of the Education Article by failing to adequately represent her with regard to a grievance it filed on her behalf concerning compensation for work she performed outside of her job classification. More specifically, Ms. Wilson asserts that AFSCME, Local 2250 did not communicate with her throughout the grievance process, and ultimately, refused to pursue her grievance to arbitration.

On December 22, 2017, Mr. Cullen filed a Response and Memorandum of Law in Support of Respondent's Motion to Dismiss ("Response and Memorandum of Law"). In his Response and Memorandum of Law, Mr. Cullen asserts that Ms. Wilson's Charge should be dismissed because it is untimely under COMAR 14.34.04.03(A).¹

COMAR 14.34.04.03(2) states that "[i]n order to be timely, Form PSLRB-05 must be filed with the Executive Director of the Board within 60 days after the charging party knew, or reasonably should have known, of the statutory violation alleged."² Therefore, in determining the timeliness of a charge, two dates are critical: the latest date that the charging party knew, or reasonably should have known, of the event alleged to have given rise to the charge, and the date that the charging party filed the charge.

In Mr. Cullen's Response and Memorandum of Law, he asserts that, on October 3, 2017, a representative from AFSCME, Local 2250 contacted Ms. Wilson to inform her that it would not move her grievance to arbitration. This assertion was not challenged by Ms. Wilson. Therefore, we can take as undisputed the fact that AFSCME, Local 2250 notified Ms. Wilson on October 3, 2017, that it would not arbitrate her grievance. Because Ms. Wilson filed her Charge on December 6, 2017, more than 60 calendar days after she knew that AFSCME, Local 2250 would not arbitrate her grievance, her Charge is dismissed as untimely.

BY ORDER OF THE PUBLIC SCHOOL LABOR RELATIONS BOARD:



Elizabeth M. Morgan, Chair

¹ On January 5, 2018, Ms. Wilson responded to the Mr. Cullen's Response and Memorandum of Law. COMAR 14.34.04.04 states that "[a] response to a motion to dismiss shall be filed within 10 days of service of a motion to dismiss." COMAR 14.34.04.06(E)(2) states in relevant part that "[a] time period which would otherwise end on a weekend or State holiday instead ends on the following business day." Mr. Cullen's Response was e-mailed to Ms. Wilson on December 22, 2017. Therefore, Ms. Wilson had until January 2, 2018, to file a response to Mr. Cullen's Response and Memorandum of Law. Because Ms. Wilson did not file her response to Mr. Cullen's Response and Memorandum of Law until January 5, 2018, her response is untimely and cannot be considered part of the record in this matter.

² As used in Form PSLRB-05 and other pronouncements by the PSLRB, the term "day" means a calendar day unless otherwise indicated. Md. Code Ann., Educ. § 6-501(c-1); COMAR 14.34.04.06(E)(1).

Robert H. Chanin

Robert H. Chanin, Member

Ronald S. Boozer

Ronald S. Boozer, Member

Donald W. Harmon

Donald W. Harmon, Member

John A. Hayden III

John A. Hayden, III, Member

Annapolis, MD

February 20, 2018

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).