

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

FRATERNAL ORDER OF POLICE LODGE 5 :
 :
 v. : Case No. PF-C-11-105-E
 :
 CITY OF PHILADELPHIA :

PROPOSED DECISION AND ORDER

On August 18, 2011, the Fraternal Order of Police Lodge No. 5 (FOP) filed with the Pennsylvania Labor Relations Board (Board) a charge of unfair labor practices alleging that the City of Philadelphia (City) violated sections 6(1)(a) and (e) of the Pennsylvania Labor Relations Act (PLRA) as read in pari materia with Act 111 of 1968 (Act 111) by refusing to comply with the provisions of a grievance settlement involving Officer Brian Gress. On August 29, 2011, the Secretary of the Board issued a complaint and notice of hearing directing that a hearing be held on September 19, 2011. The hearing examiner held the hearing and afforded the parties a full opportunity to present evidence and to cross-examine witnesses. Neither party has filed a brief.

The hearing examiner, on the basis of the evidence presented by the parties at the hearing, makes the following:

FINDINGS OF FACT

1. The FOP is the exclusive representative of a bargaining unit that includes police officers employed by the City. (Stipulation)

2. On July 18, 2001, the FOP transmitted to the City a signed copy of a settlement agreement the parties reached with respect to a grievance involving Officer Gress. (Stipulation)

3. The settlement agreement provides in relevant part as follows:

"1. The City agrees to reduce Gress' ten (10) day suspension for the charge of Neglect of Duty, Section 4.15 of the Disciplinary Code, to a five (5) day suspension.

2. The City will adjust all of Gress' personnel records to reflect this reduction, and the City will make Gress whole in all respects for the differential.

[3]. The charge of Conduct Unbecoming an Officer, Section 1.00 of the Disciplinary Code, will be removed and expunged from Gress' personnel record in its entirety."

(Stipulation)

3. As of the date of the hearing, the City had not complied with the foregoing provisions of the settlement agreement. (Stipulation)

DISCUSSION

The FOP has charged that the City committed unfair labor practices under sections 6(1)(a) and (e) of the PLRA as read in pari materia with Act 111 by refusing to comply with the provisions of a grievance settlement involving Officer Gress. The record shows that the parties entered into the grievance settlement and that as of the date of the hearing the City had not complied with provisions of the grievance settlement (findings of fact 2-3). An employer commits unfair labor practices under sections 6(1)(a) and (e) of the PLRA as read in pari materia with Act 111 by refusing to comply with the provisions of a grievance settlement. Springfield Township, 42 PPER 20 (Final Order 2011). The City, therefore, must be found to have committed the unfair labor practices charged.

CONCLUSIONS

The hearing examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds:

1. The City is an employer under section 3(c) of the PLRA as read in pari materia with Act 111.
2. The FOP is a labor organization under section 3(f) of the PLRA as read in pari materia with Act 111.
3. The Board has jurisdiction over the parties hereto.
4. The City has committed unfair labor practices under sections 6(1)(a) and (e) of the PLRA as read in pari materia with Act 111.

ORDER

In view of the foregoing and in order to effectuate the policies of the PLRA as read in pari materia with Act 111, the hearing examiner

HEREBY ORDERS AND DIRECTS

that the City shall:

1. Cease and desist from interfering with, restraining or coercing employees in the exercise of the rights guaranteed in the PLRA as read in pari materia with Act 111.
2. Cease and desist from refusing to bargain collectively with the representatives of its employees.
3. Take the following affirmative action:
 - (a) Comply with the provisions of the settlement agreement.
 - (b) Pay to Officer Gress on the differential referenced in the settlement interest at the simple rate of six per cent per annum from the date of the settlement agreement to the date he is paid the differential.
 - (c) Post a copy of this decision and order within five (5) days from the effective date hereof in a conspicuous place readily accessible to its employees and have the same remain so posted for a period of ten (10) consecutive days; and
 - (d) Furnish to the Board within twenty (20) days of the date hereof satisfactory evidence of compliance with this decision and order by completion and filing of the attached affidavit of compliance.

IT IS HEREBY FURTHER ORDERED AND DIRECTED

that in the absence of any exceptions filed with the Board pursuant to 34 Pa. Code § 95.98(a) within twenty days of the date hereof, this order shall be final.

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania, this twenty-third day of September 2011.

PENNSYLVANIA LABOR RELATIONS BOARD

Donald A. Wallace, Hearing Examiner

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

FRATERNAL ORDER OF POLICE LODGE 5	:	
	:	
v.	:	Case No. PF-C-11-105-E
	:	
CITY OF PHILADELPHIA	:	

AFFIDAVIT OF COMPLIANCE

The City hereby certifies that it has ceased and desisted from its violations of section 6(1)(a) and (e) of the PLRA as read in pari materia with Act 111, that it has complied with the provisions of the settlement agreement, that it has paid to Officer Gress on the differential referenced in the settlement agreement interest at the simple rate of six per cent per annum from the date of the settlement agreement to the date it paid him the differential, that it has posted a copy of the proposed decision and order as directed and that it has served an executed copy of this affidavit on the FOP.

Signature/Date

Title

SWORN AND SUBSCRIBED TO before me
the day and year first aforesaid.

Signature of Notary Public