

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

PITTSBURGH JOINT COLLECTIVE :
BARGAINING COMMITTEE :
 :
 : Case No. PERA-C-14-215-W
v. :
 :
PITTSBURGH WATER AND SEWER AUTHORITY :

PROPOSED DECISION AND ORDER

On July 14, 2014, the Pittsburgh Joint Collective Bargaining Committee (PJCBC or Committee) filed a charge of unfair practices with the Pennsylvania Labor Relations Board (Board) against the Pittsburgh Water and Sewer Authority (Authority or Employer), alleging that the Authority violated Section 1201(a)(1) and (5) of the Public Employee Relations Act (PERA or Act).

On July 21, 2014, the Secretary of the Board issued a Complaint and Notice of Hearing, assigning the charge to conciliation for the purpose of resolving the matters in dispute through mutual agreement of the parties, and designating February 4, 2015, in Pittsburgh as the time and place of hearing, if necessary.

A hearing was necessary and was held before the undersigned Hearing Examiner as scheduled on February 4, 2015, at which time the parties were afforded a full opportunity to present testimony, cross-examine witnesses and introduce documentary evidence. The Complainant submitted a post-hearing brief in support of its position on April 13, 2015. The Authority submitted a post-hearing brief in support of its position on June 3, 2015.

The Examiner, on the basis of the testimony presented at the hearing and from all other matters and documents of record, makes the following:

FINDINGS OF FACT

1. The Authority is a public employer within the meaning of Section 301(1) of PERA. (N.T. 7-8)
2. The PJCBC is an employe organization within the meaning of Section 301(3) of PERA. (N.T. 8)
3. The PJCBC is the exclusive collective bargaining agent with respect to wages, hours, and other conditions of employment for a unit described as "all full-time operators, maintenance and craft employees" at the Authority. (Joint Exhibit 1)
4. The PJCBC is made up of a group of constituent local unions pursuant to a 1971 Memorandum of Understanding (MOU), which includes Teamsters Local 249. (Joint Exhibit 10)
5. On June 13, 2014, Teamsters Local 249 filed a charge of unfair practices with the Board against the Authority, alleging the Authority violated Section 1201(a)(1) and (5) of the Act by refusing to process a grievance on behalf of Charles Schmitt to arbitration. The charge was docketed at PERA-C-14-190-W. (Joint Exhibit 8)
6. On June 23, 2014, the Secretary administratively dismissed the charge docketed at PERA-C-14-190-W, indicating that Teamsters Local 249 lacked standing to prosecute the charge because Teamsters Local 249 was not the exclusive bargaining representative. (Joint Exhibit 9)
7. On July 14, 2014, the Board received a charge of unfair practices in the instant matter purportedly filed by the PJCBC, which contained the exact same substantive factual averments and allegations as the charge docketed at PERA-C-14-190-W. The only

significant difference between the prior charge and the instant charge, is that the prior charge listed the name of the Complainant as "General Teamsters, Chauffeurs and Helpers Local Union No. 249, a/w International Brotherhood of Teamsters," whereas the instant charge lists the name of the Complainant as "Pittsburgh Joint Collective Bargaining Committee." The instant charge was filed by the exact same person as the prior charge, Joseph Rossi, Jr. President of Teamsters Local 249, at the exact same address, 4701 Butler Street, P.O. Box 40128, Pittsburgh, PA 15201, and listed the same telephone number. (See Specification of Charges at PERA-C-14-215-W; Joint Exhibit 8)

8. Teamsters Local 249 did not obtain authorization from the PJCBC to file the instant unfair practices charge. (N.T. 48-49)

DISCUSSION

The PJCBC has alleged, through its Teamsters Local 249 representative, that the Authority violated Section 1201(a)(1) and (5) of PERA¹ by refusing to process the Schmitt grievance to arbitration. The Authority, meanwhile, contends that the Teamsters Local 249 representative lacks standing to prosecute the instant unfair practices charge, as well as the Schmitt grievance, because Teamsters Local 249 is not the exclusive bargaining agent for the employees occupying jobs in the bargaining unit.

It is well settled that a local union, which is not the exclusive representative of the bargaining unit, lacks standing to prosecute an unfair practices charge. **United Steel Workers of America v. Ford City Borough**, 29 PPER ¶ 29249 (Proposed Decision and Order, 1998), 30 PPER ¶ 30031 (Final Order, 1999). In cases where a different entity than the exclusive bargaining representative purports to represent the bargaining unit, the Board requires the complainant to present evidence that it was authorized to file the petition or charge on behalf of the exclusive bargaining agent, and that the exclusive bargaining agent does not disagree with its decision to do so. **In the Matter of the Employees of City of Philadelphia**, 46 PPER 64 (Order Directing Remand to Hearing Examiner for Further Proceedings, 2015).

In this case, the record shows that although the PJCBC is listed as the Complainant on the charge of unfair practices, the actual Complainant is Teamsters Local 249. On June 13, 2014, Teamsters Local 249 filed a charge of unfair practices with the Board against the Authority, alleging the Authority violated Section 1201(a)(1) and (5) of the Act by refusing to process the Schmitt grievance to arbitration. The charge was docketed at PERA-C-14-190-W. On June 23, 2014, the Secretary administratively dismissed the charge docketed at PERA-C-14-190-W, indicating that Teamsters Local 249 lacked standing to prosecute the charge because Teamsters Local 249 was not the exclusive bargaining representative. On July 14, 2014, the Board received a charge of unfair practices in the instant matter purportedly filed by the PJCBC, which contained the exact same substantive factual averments and allegations as the charge docketed at PERA-C-14-190-W. The only significant difference between the prior charge and the instant charge, is that the prior charge listed the name of the Complainant as "General Teamsters, Chauffeurs and Helpers Local Union No. 249, a/w International Brotherhood of Teamsters," whereas the instant charge lists the name of the Complainant as "Pittsburgh Joint Collective Bargaining Committee." The instant charge was filed by the exact same person as the prior charge, Joseph Rossi, Jr. President of Teamsters Local 249, at the exact same address, 4701 Butler Street, P.O. Box 40128, Pittsburgh, PA 15201, and listed the same telephone number. As such, the real Complainant in the instant unfair practices proceeding is Teamsters Local 249. However, Teamsters Local 249 did not obtain authorization from the PJCBC to file the instant unfair practices charge. Nor did Teamsters Local 249 present any evidence that PJCBC agreed with its decision to file the instant unfair practices charge. Accordingly, Teamsters Local 249 lacks standing to prosecute the instant charge, and therefore, the instant charge will be dismissed.

¹ Section 1201(a) of PERA provides that "[p]ublic employers, their agents or representatives are prohibited from: (1) Interfering, restraining or coercing employees in the exercise of the rights guaranteed in Article IV of this act... (5) Refusing to bargain collectively in good faith with an employe representative which is the exclusive representative of employes in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative. 43 P.S. § 1101.1201.

CONCLUSIONS

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

1. The Authority is a public employer under Section 301(1) of PERA.
2. The PJCBC is an employe organization under Section 301(3) of PERA.
3. The Board has jurisdiction over the parties hereto.
4. The Authority has not committed unfair practices in violation of Section 1201(a)(1) and (5) of PERA.

ORDER

In view of the foregoing and in order to effectuate the policies of PERA the Examiner

HEREBY ORDERS AND DIRECTS

that the charge is dismissed and the complaint rescinded.

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-second day of July, 2015.

PENNSYLVANIA LABOR RELATIONS BOARD

John Pozniak, Hearing Examiner