

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

UTILITY WORKERS UNION OF AMERICA :
LOCAL 509 :
 :
v. : Case No. PERA-C-11-385-W
 :
SPRINGDALE BOROUGH :

ORDER

On July 26, 2013,¹ the Utility Workers Union of America, Local 509 (Union) filed exceptions with the Pennsylvania Labor Relations Board (Board) to a Proposed Decision and Order (PDO) issued on June 24, 2013. In the exceptions, the Union contends that the Board's Hearing Examiner erred in concluding that Springdale Borough (Borough) did not violate Section 1201(a)(5) of the Public Employe Relations Act (PERA) by failing to process grievances to binding mediation.²

This matter arose on October 31, 2011, when the Union filed its Charge of Unfair Practices with the Board. On November 8, 2011, the Union filed an Amended Charge of Unfair Practices, which enclosed, *inter alia*, a copy of the parties' collective bargaining agreement.

After two continuances, a hearing was held on August 24, 2012, at which time all parties in interest were afforded a full opportunity to present testimony, cross-examine witnesses and introduce documentary evidence. Both parties filed post-hearing briefs. The Hearing Examiner then issued the PDO on June 24, 2013, sustaining in part and dismissing in part the Charge of Unfair Practices.

Although the Union excepts to the Hearing Examiner's decision regarding the Borough's failure to process grievances to binding mediation, the Union's exceptions are untimely. Section 95.98(a)(1) of the Board's duly promulgated and published Rules and Regulations provides in relevant part as follows:

A party may file with the Board within 20-calendar days of the date of issuance with the Board an original and four copies of a statement of exceptions and a supporting brief to a proposed decision... Exceptions will be deemed received upon actual receipt or on the date deposited in the United States mail, as shown on a United States Postal Form 3817 Certificate of Mailing enclosed with the statement of exceptions.

34 Pa. Code § 95.98(a)(1).

The twentieth day following issuance of the Hearing Examiner's proposed decision was July 14, 2013. However, July 14 was a Sunday and is therefore excluded from computation of the twenty-day period for filing exceptions. 34 Pa. Code § 95.100(b). As such, the Union's exceptions were due on or before July 15, 2013. The Union's exceptions were not filed until July 26, 2013. Thus, the Union's exceptions are clearly untimely. Accordingly, the Hearing Examiner's PDO became final and binding on July 15, 2013, and the Union has waived all issues on appeal. **AFSCME Council 13 v. Commonwealth of**

¹ On July 26, 2013, the Union hand-delivered its exceptions to the Board's Pittsburgh office. The Union additionally mailed its exceptions to the Board's Harrisburg office on July 26, 2013, as evidenced on the United States Postal Form 3817 Certificate of Mailing enclosed with the exceptions.

² The Hearing Examiner also concluded that the Borough did not violate Section 1201(a)(1) of PERA when it made a motion during its regular monthly Council meeting to remove Union Steward William Catamore from the position of working operations foreman, but did violate Section 1201(a)(1) and (5) when it changed Mr. Catamore's hours without bargaining with the Union. Neither party filed exceptions to these determinations by the Hearing Examiner.

Pennsylvania, Department of Transportation, 33 PPER ¶ 33027 (Final Order, 2001), aff'd, No. 138 C.D. 2002 (Pa. Cmwlth. 2002) (opinion not reported).

After a thorough review of the exceptions and all matters of record, the Board shall dismiss the Union's exceptions as untimely filed.

In view of the foregoing and in order to effectuate the policies of the Public Employe Relations Act, the Board

HEREBY ORDERS AND DIRECTS

that the exceptions filed by the Utility Workers Union of America, Local 509 are hereby dismissed.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania pursuant to conference call meeting of the Pennsylvania Labor Relations Board, L. Dennis Martire, Chairman, James M. Darby, Member, and Robert H. Shoop, Jr., Member, this seventeenth day of September, 2013. The Board hereby authorizes the Secretary of the Board, pursuant to 34 Pa. Code 95.81(a), to issue and serve upon the parties hereto the within Order.