

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

DUQUESNE CITY EDUCATION ASSOCIATION, :
PSEA/NEA :
 :
v. : Case No. PERA-C-16-30-W
 :
DUQUESNE CITY SCHOOL DISTRICT :

ORDER DIRECTING REMAND TO SECRETARY FOR FURTHER PROCEEDINGS

The Duquesne City Education Association, PSEA/NEA (Association) filed timely exceptions with the Pennsylvania Labor Relations Board (Board) on March 10, 2016, challenging a February 24, 2016 decision of the Secretary of the Board declining to issue a complaint and dismissing the Charge of Unfair Practices filed against the Duquesne City School District (District). Following an extension of time granted by the Secretary for filing of a brief in support of the exceptions, the Association timely filed its brief on March 30, 2016.

The Association alleged in its Charge that the District violated Section 1201(a)(1) and (5) of the Public Employe Relations Act (PERA) by refusing a demand for arbitration on September 29, 2015. In his February 24, 2016 letter, the Secretary noted that the Association had alleged in the Charge that in November 2014, following a resolution reached between the Association and District at arbitration, the employe involved in the underlying grievance rejected the settlement, after which there was no demand to return for arbitration of the merits of the grievance until September 2015. The Secretary indicated that following the alleged rejection of the settlement in November 2014, the Association knew or should have known of the District's refusal to arbitrate more than four months prior to the filing of the Charge of Unfair Practices on January 27, 2016. The Secretary stated that the Charge was therefore untimely under Section 1505 of PERA, and declined to issue a complaint.

The Association alleges in its exceptions and supporting brief that there are factual issues regarding the timeliness of the Charge that must be resolved by way of an evidentiary hearing. In the specification of charges, the Association alleged that it had "advised the District that the grievance remained unresolved and must be resubmitted to the arbitrator for hearing and/or to determine if the parties had reached a final and enforceable agreement." With regard to the Association's allegation that the District refused to arbitrate the issue of whether there is an enforceable settlement, the agreement (attached to the Charge as Exhibit 2) states in Paragraph 21 that "[a]ny alleged violation of this Separation and Release Agreement will be subject to the grievance/arbitration process set forth in the collective bargaining agreement in existence at the time of the alleged violation." Given the allegations set forth in the Charge regarding the Association's demand to arbitrate whether there is an enforceable grievance settlement agreement, we conclude that resolution of the timeliness of the Charge will best be served by a thorough examination of the factual and legal issues raised. Therefore, we are hereby remanding this matter to the Secretary with direction to issue a complaint.¹ This order directing remand shall not be construed by the parties as a determination that the February 24, 2016 decision of the Secretary was in error.

ORDER

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

¹ The Hearing Examiner may bifurcate the hearing in order to preliminarily determine the issues regarding the timeliness of the Charge. 34 Pa. Code §95.91(e).

HEREBY ORDERS AND DIRECTS

that this matter be remanded to the Secretary of the Pennsylvania Labor Relations Board with direction to issue a complaint.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania pursuant to conference call meeting of the Pennsylvania Labor Relations Board, L. Dennis Martire, Chairman, Robert H. Shoop, Jr., Member, and Albert Mezzaroba, Member, this nineteenth day of April 2016. 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.