

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

TEAMSTERS LOCAL 773 :
 :
v. : Case No. PF-C-14-65-E
 :
STOCKERTOWN BOROUGH :

PROPOSED DECISION AND ORDER

On June 16, 2014, Teamsters Local 773 (Union or Teamsters), filed a charge of unfair labor practices with the Pennsylvania Labor Relations Board (Board) alleging that Stockertown Borough (Borough) violated Section 6(1)(a) and (c) of the Pennsylvania Labor Relations Act (PLRA), as read with Act 111. The Union specifically alleged that the Borough discriminated against Officer Joseph Vrabel when the Chief removed him from the schedule for the month of June 2014.

On July 1, 2014, the Secretary of the Board issued a complaint and notice of hearing directing that a hearing be held on November 10, 2014, in Harrisburg. During the hearing on that date, both parties were afforded a full and fair opportunity to present evidence and cross-examine witnesses. On April 16, 2015, the Union filed its post-hearing brief. On May 22, 2015, the Borough filed its post-hearing brief.

The examiner, based upon all matters of record, makes the following findings of fact.

FINDINGS OF FACT

1. The Borough is a political subdivision and a public employer under Act 111, as read with the PLRA. (PF-R-12-132-E)
2. The Union is a labor organization under Act 111 as read with the PLRA. (PF-R-12-132-E)
3. Officer Vrabel has been a part-time police officer for the Borough for ten years. In 2008 or 2009, Officer Vrabel received discipline from the former police chief, Ralph Falcone, for using a firearms instructor from another police agency. (N.T. 17-18)
4. The current Chief of Police is John Soloe. (N.T. 18, 215)
5. Officer Alex Soloe is the Chief's nephew. (N.T. 50, 220)
6. During the summer of 2012, Chief Soloe removed Officer Straka from the schedule as a disciplinary measure after the Chief investigated and confirmed a complaint that he was spending large amounts of his shift at the police department office. (N.T. 242-247)
7. On November 21, 2012, Officer Kendall Collins informed Chief Soloe that Officer Vrabel supported the Union. (N.T. 178-179)
8. On December 3, 2012, the Teamsters filed a petition seeking to represent the police officers. The Board conducted a secret ballot election on February 13, 2013, and certified the Teamsters as the exclusive bargaining representative of the Borough police officers on February 22, 2013. (PF-R-12-132-E)
9. A primary offense is the reason an officer stops a vehicle. A secondary offense is a violation the officer discovers after stopping the vehicle for the primary offense. (N.T. 78)
10. On December 26, 2012, Chief Soloe issued a written reprimand to Officer Vrabel for incorrectly issuing traffic citations. Chief Soloe referenced two traffic

citations during the "Buckle-Up" program during which time Officer Vrabel issued seatbelt citations after withdrawing the primary offenses. (N.T. 25-26, 28-29; Union Exhibit 1)

11. The December 26, 2012, written reprimand stated, in relevant part, as follows:

This is a written reprimand for the actions of writing traffic citations without the common knowledge and understanding of the vehicle code.

The fact that you wrote two(2) incorrect traffic citations on 12/1/12 during the Buckle-Up program shows both a lack of knowledge and professionalism.

The issuance of the violation as a primary offense is in excusable [sic] with the information that has been available through the Buckle-Up program and should be common knowledge by law enforcement officers.

The withdrawal of the citations does not represent a professional action of police officers in the performance of their duties.

In order for a Police Department to maintain a professional level of performance its Officers must also act and perform in a professional manner.

(Union Exhibit 1)

12. Officer Vrabel was unaware that an officer is not permitted to cite a vehicle operator for the secondary offense after dismissing the primary offense, until the district magistrate returned the citations for withdrawal. The law in Pennsylvania has now changed and a seatbelt violation can be a primary offense. (N.T. 80-81)

13. Officer Vrabel was out sick from December 2012 until March 2013. Officer Vrabel received the Chief's December 26, 2012 written reprimand on March 11, 2013 when he returned from sick leave. (N.T. 29-30; Union Exhibit 1)

14. Although, Officer Vrabel was not scheduled between December 2012 and March 2013, due to illness, he attended the Union vote on February 13, 2013. (N.T. 31)

15. Also on March 11, 2013, the Chief met with Robbie Best, Teamsters Business Agent, and Officer Vrabel. They discussed two DUI arrests that Vrabel made in July of 2012, for which Officer Vrabel had not yet completed reports or properly filed criminal complaints. The Chief was surprised that Mr. Best attended the meeting and was hostile towards Mr. Best for doing so. (N.T. 34-36, 40-41, 43,138, 141, 166; Union Exhibit 2)

16. On March 14, 2013, Chief Soloe issued a letter to Officer Vrabel, which provides, in relevant part, as follows:

I have been attempting to meet and speak with you numerous times since July, but we have been unable to do so. During our conversation on March 11, you acknowledged that you had not completed all of the reports. As to at least one of them, you stated that you had attempted to complete the report on a form which the Department no longer uses and which the District Justice will not accept. When I asked you why you had not completed the reports, you did not provide an answer. Although I asked you if your outside employment with another department was the issue, you denied that this was the case.

Obviously, you can appreciate that completing reports on criminal charges is a critical part of your duties. Although I recognize the fact that you, like me and the other members of this Department are part-time employees, you have had more than sufficient time to write three reports in the last eight months. The fact that you have not completed reports on arrests which occurred in July of 2012, eight months ago, is not acceptable and has the potential to hinder the prosecution of these serious offenses.

All criminal complaints and affidavits are to be completed on the Police Department Alert system. In addition, completed paperwork will be placed on my desk for review before submission to the District Magistrate.

With respect to the outstanding reports from the July 2012 DUI cases, you have had over eight (8) months to complete the reports, but [have not] done so for reasons which you have not fully provided. Accordingly, you are to have the reports submitted to me within seven(7) days from the date on which you receive this letter and no later than Saturday, March 23, 2013.

You should consider this letter to be a direct order that you have the reports completed by the above deadline. If you fail or refuse to have the reports completed by the above deadline, you will be subject to disciplinary action up to an[d] including discharge.

(Union Exhibit 2)

17. During this time, changes were made to the police department's computer and reporting system. Officer Vrabel attempted to complete the criminal DUI complaints on outdated complaint forms but the district magistrate rejected them. The new form was on the Borough's computer system. The DUI cases were successfully prosecuted. (N.T. 35-36, 143)

18. Officer Vrabel was on the Union negotiation committee. There were approximately six negotiation sessions, of which Officer Vrabel attended two, in August 2013. Also during the summer of 2013, Officer Vrabel was not scheduled because his first aid certification lapsed. (N.T. 24, 45, 150-151, 230; Union Exhibit 9)

19. On March 19, 2014, Officer Schwab filed a petition for decertification of the Union. On May 20, 2014, the Board issued a notice of decertification election to be conducted by mail ballot. On May 29, 2014, the Union posted a notice for officers to attend a Union meeting on May 29, 2014 to discuss contract negotiations and the decertification election. (N.T. 49; Union Exhibit 3; PF-D-14-28-E)

20. There are two types of log sheets utilized at the police department: an individual officer's daily report; and the master incident log sheet. It is part of every officer's duties to enter information into both logs and the computer by shift end. (N.T. 52-54, 99; Borough Exhibits 1-3)

21. Entries are made in an officer's daily report as incidents occur during the officer's shift, including activities such as citations, mileage, shift hours and domestics. The officer then places his/her individual daily log sheet in a tray on the Chief's desk. (N.T. 52-54, 126; Borough Exhibit 3)

22. The master incident sheet is kept in a three-ringed binder next to the computer at the police department. Officers are required to hand write entries into the master incident log both during and after their shifts. Officers are then required to copy the information from the master incident log into the computer. (N.T. 54, 126, 216; Borough Exhibits 1-2)

23. Every incident is given an incident number by the County. Officers write on the patrol log and then enter that information into the computer so that officers on duty during subsequent shifts can see what has happened and what may confront them during their shift. The Chief expects that officers enter all incidents into the master log and the computer by the end of a shift, even if it means staying after your paid shift. (N.T. 202, 205, 209, 211)

24. When Officer Eric Schwab began his shift on Saturday May 24, 2014, there was a gap in the master log for several incident numbers. Officer Schwab called the County dispatcher who told him that the incident numbers belonged to Officer Vrabel. Officer Schwab notified the Chief that night that there were no incidents reported in the log or the computer for Officer Vrabel's May 24, 2014 shift. The Chief reviewed the police log

and the computer the next day. On Monday, May 26, 2014, the Chief telephoned Officer Vrabel and left a voicemail message. (N.T. 204-205, 216-217)

25. The Chief's message was loosely as follows: "Joe, there's a bunch of reports missing, please get in--complete them as quick as possible." The Chief investigated Officer Vrabel because he received a complaint from Officer Schwab, and he was interested in determining whether there was a pattern of failing to log incidents; he was not looking to investigate Officer Vrabel. (N.T. 217, 239-243)

26. Three days later, on May 29, 2014, Chief Soloe mailed a written reprimand to Officer Vrabel removing him from the schedule for the month of June 2014. (N.T. 216, 233-234)

27. The reprimand provides, in relevant part, as follows:

I have reviewed the log sheets and the computer entries from your shifts dated May 24, 2014 and May 27, 2014.

It is each officer's responsibility to complete their required paperwork at the conclusion of their shift. In review of your shift of May 24, 2014 there are no entries in the log book or in the ALERT program. There are two entries in the log book that do not show on your log sheet.

The patrol shift of May 27, 2014 by you shows no log sheet completed. I have no reference to what was completed or happened on this shift.

In accordance with the Stockertown Borough Police Department SOP's, you have failed to meet the requirements of:

1. Admin-0065(B) Job Title: Police Officer
2. Admin-006 General Rules of Conduct
3. Order No-004 Reports

Effective immediately you are hereby removed from the June schedule.

(Union Exhibit 4)

28. On May 30, 2014, Officer Vrabel reviewed the police logs of other officers in the department and discovered that four other officers did not complete reports for incidents that occurred during their shifts. (N.T. 58)

29. Officer Vrabel discovered that Officer Soloe failed to complete incident reports during May 2014. Officer Djindjiev failed to complete citations during May 2014. Officers Shimer and Schwab each failed to complete one report during May 2014. (N.T. 60-62)

30. Officer Molly Brown informed Chief Soloe that his nephew Officer Alex Soloe failed to enter reports and complete traffic citations. Upon learning of Officer Soloe's delinquencies, the Chief removed Officer Soloe from the schedule for two weeks in June 2014. (N.T. 71, 206-207, 220-221)

31. Officer Vrabel received a longer suspension than Officer Soloe because the Chief's investigation revealed that Officer Vrabel had more unlogged and unreported incidents than Officer Soloe and Officer Vrabel had more time to correct his reporting deficits. The Chief's investigation revealed that Officer Soloe had two traffic citation entries missing compared to six for Officer Vrabel. The Chief's investigation results contradict Officer Vrabel's investigation results. (N.T. 236-237, 239-241)

32. On July 2, 2014, the Board issued a Nisi Order of Decertification, decertifying the Union. (PF-D-14-28-E)

33. On Friday, August 22, 2014, at 9:56 p.m., Officer Vrabel photographed the Borough's lighted sign which provided as follows: "POLICE DEPT. DISSOLVES UNION." This sign posting remained during July and August and was removed some time in September 2014.

The Chief was not in any way involved with this sign posting. (N.T. 65-66, 250-251; Union Exhibit 6)

34. The Chief credibly testified that during the months following Vrabel's suspension, the schedule was already fully staffed and that, in his discretion, he did not need to schedule Officer Vrabel. Officer Vrabel had also been off schedule for three months for illness. He was also off schedule for an extended period of time when he allowed his first aid certification to lapse. The Chief has also not scheduled other officers, like Officer Snyder, for extended periods of time due to a fully staffed schedule.

DISCUSSION

In a discrimination claim under Section 6(1)(c) of the PLRA, the claimant has the burden of proving that the employe engaged in protected activity, that the employer was aware of this activity, and that the employer took adverse action against the employe that was motivated by the employe's engaging in that known protected activity. **Duryea Borough Police Department v. PLRB**, 862 A.2d 122 (Pa. Cmwlth. 2004); **FOP, Lodge 5 v. City of Philadelphia**, 38 PPER 184 (Final Order, 2007). Motive creates the offense. **PLRB v. Stairways, Inc.**, 425 A.2d 1172 (Pa. Cmwlth. 1981). Because direct evidence of anti-union animus is rarely presented, or admitted by the employer, the Board and its examiners may infer animus from the evidence of record. **Borough of Geistown v. PLRB**, 679 A.2d 1330 (Pa. Cmwlth. 1996).

The employer may rebut the union's **prima facie** case by proving that the action complained of was taken for legitimate business reasons or that, despite evidence of unlawful motive, the employer would have taken the same action anyway. **Upland Borough, supra. West Shore Sch. Dist., supra; Teamsters Local Union No. 32 v. Washington Township Mun. Auth.**, 20 PPER ¶ 20128 (Final Order, 1989). The latter is otherwise known as a "dual motive" case. **Indiana Area Educ. Ass'n v. Indiana Area Sch. Dist.**, 34 PPER 133 (Final Order, 2003). In either defensive posture, an employer's insubstantial or pretextual explanation for adverse action coupled with close timing of that adverse action to protected activity can further support a **prima facie** case.

The Borough moved to dismiss the charge at the conclusion of the Union's case-in-chief, claiming that the Union failed to establish a prima facie case of discrimination. (N.T. 181-200). The Borough again moved for dismissal at the close of its case-in-chief. (N.T. 248). I deferred my ruling on the Motion, in compliance with 1 Pa. Code § 35.180.

The Union presented substantial competent evidence in this case establishing that Chief Soloe issued the one-month suspension to Officer Vrabel and, in so doing, he acted alone and not at the direction of any Borough Council members or the Mayor. The record is also clear that the Chief knew that Officer Vrabel was a Union supporter as early as November 2012. The remaining question, for purposes of disposing of the Borough's Motion, is whether the Union's case yields an inference of unlawful of motive.

The Chief is not prevented from imposing warranted discipline on any of his officers simply because they are engaged in protected activities. Moreover, the Board does not consider just cause or otherwise scrutinize managerial discretion in selecting the method or extent of discipline imposed in determining whether an employer's business reason is "legitimate." A business reason, rather, is "legitimate" when it is not unlawfully motivated or pretextual.

The purpose of discipline is to teach and correct employe behavior. The record shows that Officer Vrabel repeatedly failed to perform required job duties as expected and offered numerous excuses for why he did not complete his work on time. The record also shows that Officer Vrabel demonstrated an indifferent attitude about timely filing criminal charges, completing reports and entering incidents in the police department master log and computer. Also, Chief Soloe did not remove Officer Vrabel from the schedule until after the Chief repeatedly addressed several incidents where Officer Vrabel failed to properly and timely complete and submit paperwork without a change in Officer Vrabel's behavior. Where lower levels of discipline through written reprimands do not change an employe's errant behavior, then an employer is entitled to inflict harsher

penalties to correct that behavior. The Chief's imposition of progressive discipline here in the form of suspension was proximately caused by Officer Vrabel's indifference and not by animus for protected activity, even though Officer Vrabel's protected activity overlapped with his delinquencies.

The Union argues that Officer Vrabel had no discipline, since John Soloe became the Chief of Police, until after Officer Collins informed the Chief that Vrabel was a Union supporter. (Union Brief at 7) It was shortly after the Chief learned of Vrabel's Union support that he was issued his first written reprimand. (Union Brief at 7). The Chief, maintains the Union, was openly hostile toward Union Business Agent, Mr. Best, during the March 11, 2013 meeting. (Union Brief at 7). The Union also argues that the timing of the May 29, 2014 suspension with the notice of a Union meeting prior to the decertification vote also suggests that the suspension was motivated by animus. Additionally, the Union emphasizes the Borough Council President, who was deeply involved in labor relations decisions, was openly hostile and combative toward the Union, making "snippy" and "sarcastic" remarks during negotiations. (Union Brief at 7-8 & 8 fn. 6). The Union further relies on the Borough's sign "boasting" that the "POLICE DEPT. DISSOLVES UNION" as evidence of Chief Soloe's and Borough Council President's animus because they did not order the sign to be removed. (Union Brief at 8-9).

The Union further contends that Officer Vrabel was the victim of disparate treatment evidencing unlawful motive. (Union Brief at 9). First, according to the Union, the blank entries in the master log for May 24, 2014, "do not justify discipline," and that Officer Vrabel did not have a chance to update the logbook or complete his paperwork before he was disciplined. (Union Brief at 9-10). Moreover, he disciplined Officer Vrabel for not completing the log without disciplining other employees for the same offense and Officer Soloe was only disciplined when Officer Brown informed the Chief that he failed to complete incident reports and then was given only a two week suspension. (Union Brief at 10-11). The Union claims that imposing discipline on Vrabel for a common discrepancy constitutes disparate treatment and that it is clear that the Chief made no effort to monitor the records of any other officer. (Union Brief at 11). Finally, the Union claims that, although Officer Vrabel was suspended for one month, the Chief actually kept Officer Vrabel off the schedule for three months in comparison to Officer Soloe who was suspended for only two weeks. Such disparate treatment, contends the Union, in combination with other factors yields the strong inference that Officer Vrabel was removed from the schedule for June 2014 for unlawful reasons. (Union Brief at 11).

The Union's arguments, however, embellish the record. Chief Soloe issued a written reprimand to Officer Vrabel in December 2012 for incorrectly citing a vehicle operator for a seatbelt violation, a secondary violation under then existing Pennsylvania law, without pursuing the primary vehicle code violation. It was the district magistrate who flagged the issue which came to the attention of the Chief. The Chief was not targeting Officer Vrabel. Although the Chief had been told of Vrabel's Union support prior to the December 2012 written reprimand and the representation petition had been filed by this time, there is no evidence, other than timing, to suggest that the Chief was unlawfully motivated in issuing this discipline. The fact that Vrabel had not been disciplined in six years since he used the firearms instructor from another municipality is of no moment. The district magistrate brought the matter to the surface and the Chief, in his managerial discretion, felt it necessary to correct Vrabel's misunderstanding of the law through the disciplinary measures of a written reprimand.

Additionally, Vrabel made two DUI arrests during the summer of 2012 and took eight months to complete the paperwork and file the criminal complaint. Although those two DUIs were successfully prosecuted, there was a risk that the information and investigation could become stale if the reports, which officers use to refresh their memories when prosecuting a case in the courts, fade. Again, Vrabel had offered a list of excuses for not getting the job done. He was neglectful about completing paperwork, which was important to the Chief. ***In his March 14, 2013 letter, the Chief noted that he tried numerous times to speak with Vrabel since July 2012 about the DUI cases. The Chief noted that "completing reports on criminal charges is a critical part of your duties," and that eight months to complete three reports in unacceptable.*** (F.F. 17; Union Exhibit 2).

Regardless of his union activity, a pattern emerged where Officer Vrabel was simply neglecting an important part of his duties as an officer. Although he removed himself from the schedule for three months due to illness, Officer Vrabel was well enough to attend the Union vote in February 2013. Certainly, he was capable of completing his reports well before the Chief counseled him on March 11, 2013. Moreover, after reprimanding Vrabel over the seatbelt violations, the Chief could have again reprimanded or suspended Vrabel for failing to timely complete his work on the two eight-month-old DUI arrests, but he did not. Rather, the Chief stated: "You should consider this letter to be a direct order that you have the reports completed by the above [March 23, 2013] deadline." The direct order, as opposed to discipline, does not demonstrate disparate treatment, or targeting for Union activity. Although there were changes made to the criminal complaint forms and there were updates to the department computer systems, these were simply excuses for failing to get the job done within eight months.

The bald characterization that the Chief was hostile or escalated during the March 11, 2013 meeting does not in this case establish that the discipline of May 29, 2014 was motivated by animus. First there is too much time between Vrabel's Union activity and the May 29, 2014 discipline. Moreover, the March 14, 2013 letter that the Chief issued to Vrabel concerning his eight-month delinquent DUI paperwork was not disciplinary. No adverse employment action came from the Chief's alleged hostility. There is no evidence connecting the Chief's alleged frustration with Union animus. The Union did not show that the Chief's frustration or hostility during the meeting was Union related. The Chief could have been upset because of Vrabel's repeated delinquencies or because of the extended delay in getting to meet with Vrabel about those delinquencies. Not mere hostility alone, but some reason why there was frustration or hostility must be shown.

During the summer of 2013, Vrabel participated in contract negotiations on behalf of the Union with the Chief and the Borough council President present on behalf of the Borough. Despite dealing with Vrabel as a Union negotiator in the summer of 2013 and aware of his Union activities since November 2012, over fourteen months passed without incident for Vrabel. Then Officer Schwab, and not the Chief, discovered that Officer Vrabel did not complete his incident log reports in the master log during or after his shift of May 24, 2014. Completing the log immediately during or after a shift is important for the next officer on duty. Although Vrabel testified that it is acceptable to leave the master log incomplete for several days to complete an investigation and retrieve information from the County dispatcher, Officer Schwab credibly contradicted that testimony. Moreover, both the officers' individual log and the master incident log do not require investigation details that may not be obtained until a later date. Those logs, entered into the record as Borough Exhibits 1-3, reveal that the information required is already in the officer's possession by the end of his/her shift. There is no excuse for not completing the logs by shift end. Moreover, part timers make up the entire department. As a part-time officer, Vrabel may not return to the station for several days because of his part-time schedule. The log entries could remain blank for days, if not completed by shift end.

Furthermore, the Chief was not investigating Officer Vrabel to target him for his union activity. The Chief investigated Vrabel's incomplete police logs and computer entries upon the complaint of Officer Schwab. Consistent with past procedure, the Chief investigates an officer only upon receiving a complaint. During the summer of 2012, before there was any Union activity, the Chief investigated Officer Straka for spending too much of his shift at the police station only after receiving a complaint. The laundry list of excuses offered by the Union on behalf of Officer Vrabel does not excuse a lackadaisical attitude of letting police incident logs and computer entries lapse.

The Union claims that the Chief's suspension of Vrabel was unlawfully motivated because he did not suspend his nephew for as long as he suspended Vrabel, despite the fact that Officer Soloe had more incomplete reports and that other officers who neglected paperwork received no discipline at all. The record, however, belies the Union's arguments. The Chief credibly testified that his investigation revealed that Officer Vrabel had more incomplete logs than officer Soloe. Moreover, by the time the Chief was investigating the computer entries and police logs, the Chief was dealing with the third paperwork related delinquency regarding Officer Vrabel. None of the other officers had

been previously counseled or disciplined regarding the completion of their police logs or computer entries or the timely and proper filing of criminal complaints as had Officer Vrabel. The other officers were simply not similarly situated and, therefore, there was no disparate treatment.

The Union also argues that the blank entries in the master log "do not justify discipline." The Union's argument ignores the importance to the department of completing logs, computer entries and reports. Officer Vrabel has demonstrated a pattern of neglecting the paperwork aspect of his duties. He does not need to wait for investigations to be completed before filling out his logs and completing his computer entries. He simply did not want to invest unpaid time in completing his duties or learning computer updates to retrieve updated forms. The argument, that it was common practice among officers to neglect to make log entries and complete reports and citations, is not supported by the record. The fact that others may have done so on occasion is no excuse for neglecting duty. The Chief only investigates complaints, and the record shows that he has not targeted any officers for any reason.

Also, contrary to the Union's argument, Officer Vrabel did have time to update the logbook and complete his paperwork before he was disciplined. As previously stated, officers are expected to complete the log entries during or after their shift. The information that goes into the logs is information already in the possession of the officer going off shift. There simply is no excuse for not timely completing the logs and computer entries and a failure to do so handicaps the officer coming on duty.

Finally, the Union argues that Chief Soloe kept Officer Vrabel off the schedule for three months and not the one month provided in his May 29, 2014 suspension notice, which supports an inference of unlawful motive and hostility toward Vrabel for his protected activities. The Chief credibly testified that during the months following Vrabel's suspension, the schedule was fully staffed and that, in his discretion, he did not need to schedule him. It was not the first time that Vrabel was unscheduled for non-disciplinary reasons. He was off for three months for illness and he was off for an extended period of time when his first aid certification lapsed. The Chief has also not scheduled other officers, like Officer Snyder, for extended periods of time due to scheduling needs.

The Chief credibly testified that he had no involvement with or control over the Borough sign. Clearly, someone at the Borough was happy about the Union decertification and advertised it on the Borough sign in late summer of 2014. The Union's argument, however, that animus should be attributed to the Chief because someone else at the Borough advertised the decertification of the Union is without merit. There is no inference of a connection between the Chief and the sign or the fact that he did not order the posting removed.

The Union claims that the Council President exhibited animus and hostility toward the Union and that she was deeply involved in labor relations. The record, however, shows that the Chief acted alone in determining to discipline Officer Vrabel. He did not act in concert with nor did he take orders from the Borough Council President regarding his decision to discipline Officer Vrabel. The Union simply did not show any nexus between Officer Vrabel's discipline and Borough Council President.

The Union's case-in-chief reveals that Officer Vrabel failed to properly perform his paperwork related duties according to the Chief's expectations. The Union dismisses these failures as either inconsequential or common practice. I disagree that these failures are inconsequential or that they are common practice. It is important that the officer on duty following Officer Vrabel sees those log entries. The required information is available to Officer Vrabel to enter into the log. The Union's bald characterization that missing log entries are inconsequential is insulting to the managerial discretion of the Chief who imposed the protocols, and it is not competent evidence of animus. The Chief repeatedly counseled and disciplined Officer Vrabel for his paperwork delinquencies and repeatedly tried to meet and discuss the matters with Officer Vrabel to no avail. Officer Vrabel demonstrated a consistent neglect of his paperwork duties over a period of time that the Chief tried repeatedly to correct. The Chief in his discretion increased the penalty to a

one-month suspension of part-time employment. The Chief did not have to neglect his own responsibilities as Chief, to correct neglectful behavior of his officers through the imposition of discipline, merely because the errant employe was a Union supporter.

Accordingly, the Borough's Motion is granted, the complaint is rescinded and the charge is dismissed.

CONCLUSIONS

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

1. The Borough is a public employer and a political subdivision of the Commonwealth within the meaning of Act 111 as read in **pari materia** with the PLRA.
2. The Union is a labor organization within the meaning of the PLRA as read in **pari materia** with Act 111.
3. The Board has jurisdiction over the parties hereto.
4. The Borough has **not** committed unfair labor practices within the meaning of Section 6(1) (a) or (c) 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 and Act 111, the hearing examiner

HEREBY ORDERS AND DIRECTS

That the Borough's Motion to Dismiss the charge is granted, the charge is dismissed, the complaint is rescinded and that in the absence of any exceptions filed with the Board pursuant to 34 Pa. Code § 95.98(a) within twenty (20) days of the date hereof, this order shall be final.

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania, this fourteenth day of March, 2016.

PENNSYLVANIA LABOR RELATIONS BOARD

JACK E. MARINO
Hearing Examiner