

OLR v. L. 371, SSEU, 15 OCB 7 (BCB 1975) [Decision No. B-7-75  
(Arb)]

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF COLLECTIVE BARGAINING

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In the Matter of

OFFICE OF LABOR RELATIONS,

DECISION NO. B-7-75

Petitioner

DOCKET NO. BCB-213-75

- and -

SOCIAL SERVICES EMPLOYEES UNION,  
Local 371, AFSCME,

Respondent

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**DECISION AND ORDER**

Respondent Social Services Employees Union, Local 371 on February 4, 1975 filed a request for arbitration of a grievance involving the alleged unprofessional and undignified treatment of an employee by an Assistant Comptroller, Bellevue Hospital in the course of a grievance hearing.

Respondent claims that the Health and Hospital Corporation violated Article XVIII of its contract effective January 1, 1971 to December 31, 1973, Article XXI of the "negotiated settlement effective 1974 to 1975", and certain Health and Hospital Corporation personnel policies. Respondent requests arbitration pursuant to Article XXI of its contract effective January 1, 1969 to December 31, 1970, and Article VII, Section 2 of the "negotiated settlement effective 1974 to 1975."

The City's petition herein filed February 11, 1975 alleges that the grievance presented by Respondent is not arbitrable.

The City maintains that "there is no collective bargaining agreement between the parties and, of course, no agreement between them to arbitrate."

As of March 17, 10,75, no answer has been served or filed by Respondent.

The proof of service annexed to the City's petition verifies that on February 10, 1975, the petition was served on Respondent at 817 Broadway by mail. Respondent, however, on February 28th at the Office of Collective Bargaining (OCB) asserted that it first received notice of the City's petition on February 26th. To substantiate its claim, Respondent produced a Health and Hospitals Corporation envelope in which Respondent argued it first received a copy of the petition. The envelope was postmarked February 20th by an office postage meter machine and was addressed to Respondent at 250 Broadway rather than its correct address at 817 Broadway. Respondent then requested information from the OCB as to procedure; it was explained to Respondent that an answer to the City's petition should be sent within 10 days to the OCB.

Assuming that the petition was first received on February 26th by Respondent, the time to interpose an answer is computed from February 26th, and that time expired on March 8, 1975.

Inasmuch as Local 371 has failed to interpose an answer although the time to do so has expired, we deem the allegations

in the petition admitted by default.<sup>1</sup> Accordingly, we shall grant the City's petition.

**O R D E R**

Pursuant to the powers vested in the Board of Collective Bargaining by the New York City Collective Bargaining Law, it is hereby

ORDERED, that the petition filed by the City of New York herein be, and the same hereby is granted on default; and it is hereby

ORDERED, that the request for arbitration filed by Social Services Employees Union, Local 371 be, and the same hereby is denied.

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<sup>1</sup> We note that the Union on December 13, 1974 requested The arbitration of the same alleged grievance, but the request was made pursuant to Executive Order 83, Section 5, and the City's petition filed on December 30, 1974 challenging that request also went unanswered.

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DATED: New York, N.Y.  
March 24 , 1975

ARVID ANDERSON  
CHAIRMAN

ERIC J. SCHMERTZ  
MEMBER

THOMAS J. HERLIHY  
MEMBER

EDWARD F. GRAY  
MEMBER

N.B. Member Eisenberg did not participate in this decision.