

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING

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In the Matter of

WALTER JOHNSON, JR.,

DECISION NO. B-18-82

Petitioner,

DOCKET NO. BCB-532-81

-and-

CORRECTION OFFICERS BENEVOLENT
ASSOCIATION,

Respondent.

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DECISION AND ORDER

Walter Johnson, Jr. commenced this proceeding by filing, on September 25, 1981,¹ an improper practice petition in which the controversy is described as follows:

On February 3rd, 1978 - 1:30 p.m. to 10:00 p.m. - tour at
A.R.D.C. - 6 Main.

I left my post for reasons of my own not knowing at the time I was reading people or what they call a form of telepathy. 1. My name is not Walter Johnson; 2. I explained to Mr. Lang the best way I could at the trial; 3. I think it was too harsh a punishment for having over eight years with the department for the lawyer should have known better that one year cost me \$20,000 over a year for a second appeal; 4. The case was broadcasted all

¹ The petition was originally filed on September 15, 1981, but was not accepted because the petitioner had failed to file proof of service as required by Section 7.6 of the Revised Consolidated Rules of the office of Collective Bargaining (hereinafter "OCB Rules"). The petition was resubmitted with the requisite certificate of mailing on September 5, 1981, and was docketed as of that date.

over the radio and still is today, and I think it was too heavy a penalty; 5. I paid my union dues since I started working for the department.

The respondent Correction Officers' Benevolent Association (hereinafter "COBA" or "the Union") filed an answer on November 9, 1981 in which it denies having knowledge or information sufficient to form a belief as to the incident complained of. The Union also asserts that the petition fails to state a cause of action in which the Union could have participated, and that the petition was not timely filed in accordance with OCB Rule 7.4.²

The petitioner did not file a reply.

Discussion

Based upon information supplied by the Department of Correction, by whom the petitioner was employed at the time the events complained of herein arose, it appears that the petitioner was terminated for walking off his job at the Adolescent Reception and Detention Center at 5:00 p.m. on February 3, 1978, when his scheduled tour of duty was from 1:35 p.m. to 9:50 P.M. Based upon the scant information provided by the petitioner as set forth above, it appears that the petitioner is claiming that COBA, in a manner which is not explained, breached its duty of fair representation

² Section 7.4 of the OCB Rules provides:

A petition alleging that a public employer or its agents or a public employee organization or its agents has engaged in or is engaging in an improper practice in violation of Section 1173-4.2 of the statute may be filed with the Board within four (4) months thereof by one (1) or more public employees or any public employee organization acting in their behalf or by a public employer together with a request to the Board for a final determination of the matter and for an appropriate remedial order.

with respect to the proceedings which resulted in the termination of petitioner's employ Clearly such a claim, if supported by evidence, would be within the jurisdiction of the Board of Collective Bargaining pursuant to Section 1173-4.2b of the NYCCBL.³

However, the events complained of in this case arose as long ago as February of 1978. There being no allegation that the actions complained of continued until or occurred at any time within four months prior to the filing of the improper practice petition in September of 1981, we find that consideration of this matter is barred by the statute of limitations contained in OCB Rule 7.4.

Accordingly, we shall dismiss the improper practice 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

³ Board Decisions Nos. B-16-79, B-13-81, and B-11-82.

ORDERED, that the improper practice petition filed by Walter Johnson, Jr. be, and the same hereby is, dismissed.

DATED: New York, N.Y.
June 17, 1982

ARVID ANDERSON
CHAIRMAN

MILTON FRIEDMAN
MEMBER

EDWARD J. CLEARY
MEMBER

EDWARD SILVER
MEMBER

JOHN D. FEERICK
MEMBER