

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF COLLECTIVE BARGAINING  
- - - - - x

In the Matter of  
CORINE ALSTON,  
Petitioner,  
-and-  
DISTRICT COUNCIL 37, AFSCME,  
AFL-CIO  
Respondent.

DECISION NO. B-11-63  
DOCKET NO. BCB-634-83

- - - - - x

**DECISION AND ORDER**

This proceeding was commenced on January 26, 1983, by the filing of a verified improper practice petition by Corine Alston (hereinafter "Petitioner") in which she asserts that District Council 37, AFSCME, AFL-CIO (hereinafter "the Union") breached its duty of fair representation. The Union filed an answer and motion to dismiss on January 26, 1983, pleading untimeliness and failure to state a claim. Petitioner did not reply.

**Background**

Human Resources Administration (hereinafter "HRA") employee Alston filed for retirement effective August 7, 1981. On July 28, 1981, Petitioner informed HRA that she wished to rescind her retirement. Although Petitioner

continued to work, in late September, 1981, she begin receiving pension checks. Alston discussed the matter with HRA officials who told Petitioner that her employment would be terminated as of October 2, 1981.

Petitioner contacted the Union on October 7, 1981. Union representative Della Williams contacted HRA shortly thereafter. on or about October 15, 1981, Williams informed Petitioner that HRA would not allow her to rescind her decision to retire since she had already received pension checks; however, Petitioner could attempt to get rehired as a new employee.

### **Discussion**

Petitioner commenced the instant improper practice proceeding more than fifteen months after HRA's pronouncement was conveyed to her by the Union. The action is therefore barred by Section 7.4 of the Revised Consolidated Rules of the Office of Collective Bargaining which prescribes a four month statute of limitations for the commencement of such matters.<sup>1</sup>

---

<sup>1</sup> Section 7.4 of the Revised Consolidated Rules provides as follows:

Improper Practices. 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

(continued)

Petitioner's failure to comply with the filing requirements related to timeliness mandated by the New York City Collective Bargaining Law precludes us from reaching the actual merits of Petitioner's complaints.

**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

---

<sup>1</sup>continued

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.

ORDERED, that the improper practice petition filed by Corine Alston be, and the same hereby is, dismissed.

DATED: New York, N.Y.  
April 20, 1983

ARVID ANDERSON  
CHAIRMAN

MILTON FRIEDMAN  
MEMBER

DANIEL G. COLLINS  
MEMBER

---

CAROLNY GENTILE  
MEMBER

MARK J. CHERNOFF  
MEMBER

EDWARD SILVER  
MEMBER

JOHN D. FEERICK  
MEMBER