

**Mondshein v. L.2021, DC37, OTB, 31 OCB 5 (BCB 1983) [Decision No. B-5-83 (IP)]**  
OFFICE OF COLLECTIVE BARGAINING  
BOARD OF COLLECTIVE BARGAINING

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In the Matter of

HAROLD MONDSHEIN,

DECISION NO. B-5-83

Petitioner,

DOCKET NO. BCB-630-82

-and

LOCAL 2021, DISTRICT COUNCIL 37,  
AFSCME AFL-CIO and NEW YORK CITY  
OFF-TRACK BETTING CORPORATION,  
Respondents.

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**DECISION AND ORDER**

This proceeding was commenced on December 9, 1982, by the filing of a verified improper practice petition by Harold Mondshein, Esq. (hereinafter "Petitioner") in which he asserts that Local 2021, District Council 371 AFSCME, AFL-CIO (hereinafter "the Union") and the New York City Off-Track Betting Corporation (hereinafter "OTB") failed to properly process his grievance. Counsel for the Union filed an answer on December 13, 1982 and therein moved to dismiss, alleging that Petitioner's claim was untimely. OTB, in its answer received December 27, 1982, also moved to dismiss, pleading untimeliness, laches and failure to state a claim. Petitioner filed two separate replies on December 20, 1982, to the Union's answer and

on December 22, 1982, to OTB's answer. The Union submitted a letter dated December 29, 1982, in which it requested that matters raised by Petitioner for the first time in his reply not be considered by this Board. The Union also stated that questions of arbitrability raised by Petitioner are unrelated to the instant proceeding. On December 30, 1982, Petitioner amended certain typographical errors in his reply of December 22nd.

#### Discussion

On August 25, 1981, OTB issued a written denial of grievances filed by the Union on Petitioner's behalf. In response to communications from Petitioner, on February 25, 1982, the Union wrote to Mondschein, stating that the matter had been "thoroughly investigated" and that "no further action ... was possible."

Petitioner commenced the instant improper practice proceeding on December 9, 1982, substantially in excess of the four month statute of limitations<sup>1</sup> applicable to such

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<sup>1</sup> Section 7-4 of the Revised Consolidated Rules of the Office of Collective Bargaining 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 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.

matters. Petitioner's actions throughout this case bespeak not mere ignorance but willful disregard for the law and for orderly procedure.

On the basis of the record before us, it appears that there was a basis for all of the actions both of the public employer and of the union herein, of which Petitioner complains. However, we make no ruling on the actual merits of Petitioner's complaints due to the untimeliness of Petitioner's presentation to us. Accordingly, we will dismiss the petition herein.

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 improper practice petition filed by Harold Mondschein be, and the same hereby is, dismissed.

DATED: New York, N.Y.  
February 28, 1983

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ARVID ANDERSON  
CHAIRMAN

MILTON FRIEDMAN  
MEMBER

DANIEL G. COLLINS  
MEMBER

EDWARD F. GRAY  
MEMBER

CAROLYN GENTILE  
MEMBER

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EDWARD SILVER  
MEMBER

PATRICK F.X. MULHEARN  
MEMBER