

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF COLLECTIVE BARGAINING

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In the Matter of

ANITA DeBLASE,

Petitioner,

DECISION NO. B-26-87 (ES)

-and-

DOCKET NO. BCB-894-86

ALAN ROSENBLUT, GOUVERNEUR  
HOSPITAL,

Respondents.

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DETERMINATION

Petitioner Anita DeBlase has filed a verified improper practice in which she charges the respondent Alan Rosenblut, a management representative of Gouverneur Hospital, with committing an improper practice within the meaning of the New York City Collective Bargaining Law (hereinafter "NYCCBL"). Pursuant to Section 7.4 of the Revised Consolidated Rules of the Office of Collective Bargaining (hereinafter "OCB Rules"), a copy of which is annexed hereto, the undersigned has reviewed the petition and has determined that it does not allege facts sufficient as a matter of law to constitute an improper practice within the meaning of the statute.

The petitioner, a Principal Administrative Associate employed by Gouverneur Hospital, a facility of the New York City Health and Hospitals Corporation, complains

that she has been harassed and degraded by supervisor employees; that she was given an unfair performance evaluation and that her rebuttal thereto never was reviewed by her superiors; that a change in her responsibilities and in her position in the Hospital's table of organization was not clarified to her satisfaction; and that she has been threatened with demotion. In support of her contention that her work has been satisfactory, the petitioner has submitted copies of several prior performance evaluations in which her work was rated as "Outstanding". The one evaluation which the petitioner disputes rates her work as "Satisfactory". The petitioner notes that following the occurrence of the above events, her union representative filed two grievances on her behalf.

Notwithstanding the evidence of the petitioner's outstanding performance of her duties over a period of several years, I find that the petition does not allege facts tending to show that the respondent Hospital or its agents committed any of the acts specified in Section 1173-4.2a of the NYCCBL. Even assuming the truth and accuracy of the allegations of the petition,

it does not appear that the respondents harassed the petitioner or implemented any of the personnel actions of which she complains for any of the proscribed reasons set forth in the NYCCBL. There is no allegation that the respondents' actions were connected in any way with the petitioner's exercise of her right to form, join, assist, or participate in the activities of a public employee organization; or to refrain therefrom. In this regard, I find it significant that the union which represents the petitioner's job title filed grievances on her behalf only after occurrence of the actions challenged herein. There is no suggestion of retaliation for engaging in protected union activity (i.e., the filing of the grievances).

The NYCCBL does not provide a remedy for every perceived wrong or inequity. It does provide procedures designed to safeguard those employees' rights created in that statute, i.e., the right to organize, to form, join, and assist public employee organizations, to bargain collectively through certified public employee organizations; and the right to refrain from such activities. The petition herein does not allege that the employer's actions were intended to effect the

exercise of any of these rights. Accordingly, I find that no improper employer practice has been stated. The petition, therefore, is dismissed pursuant to Section 7.4 of the OCB Rules. Such dismissal is, of course, without prejudice to any rights the petitioner may possess in any pending grievance proceeding.

Dated:       New York, N.Y.  
              July 8, 1987

William J. Mulry  
Executive Secretary  
Board of Collective  
Bargaining

REVISED CONSOLIDATED RULES OF THE  
OFFICE OF COLLECTIVE BARGAINING

§7.4 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. Within ten (10) days after a petition alleging improper practice is filed, the Executive Secretary shall review the allegations thereof to determine whether the facts as alleged may constitute an improper practice as set forth in section 1173-4.2 of the statute. If it is determined the petition, on its face, does not contain facts sufficient as a matter of law to constitute a violation, or that the alleged violation occurred more than four (4) months prior to the filing of the charge, it shall be dismissed by the Executive Secretary and copies of such determination shall be served upon the parties by certified mail. If, upon such review, the Executive Secretary shall determine that the petition is not, on its face, untimely or insufficient, notice of the determination shall be served on the parties by certified mail, provided, however, that such determination shall not constitute a bar to the assertion by respondent of defenses or challenges to the petition based upon allegations of untimeliness or insufficiency and supported by probative evidence available to the respondent. Within ten (10) days after receipt of a decision of the Executive Secretary dismissing an improper practice petition as provided in this subdivision, the petitioner may file with the Board of Collective Bargaining an original and three (3) copies of a statement in writing setting forth an appeal from the decision together with proof of service thereof upon all other parties. The statement shall set forth the reasons for the appeal.

§7.8 Answer-Service and Filing. Within ten (10) days after service of the petition, or, where the petition contains allegations of improper practice, within ten (10) days of the receipt of notice of finding by the Executive Secretary, pursuant to Rule 7.4, that the petition is not, on its face, untimely or insufficient, respondent shall serve and file its answer upon petitioner and any other party respondent, and shall file the original and three (3) copies thereof, with proof of service, with the Board. Where special circumstances exist that warrant an expedited determination, it shall be within the discretionary authority of the Director to order respondent to serve and file its answer within less than ten (10) days.

OTHER SECTIONS OF THE LAW AND RULES MAY BE APPLICABLE.  
CONSULT THE COMPLETE TEXT.