

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF COLLECTIVE BARGAINING

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In the Matter of the Improper  
Practice Proceeding :

-between- : DECISION NO. B-32-89 (ES)

SHAWN ALEXANDER, : DOCKET NO. BCB-1155-89

Petitioner, :

-and- :

BROOKLYN HOUSE OF DETENTION  
FOR MEN, :

Respondent. :

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#### DECISION AND ORDER

On March 20, 1989, the Office of Collective Bargaining ("OCB") received a verified improper practice petition from Shawn Alexander ("Petitioner"), which it did not accept for filing because Petitioner failed to submit proof of service of the petition on the Brooklyn House of Detention for Men ("Respondent"), as required by Section 7.6 of the Revised Consolidated Rules of the Office of Collective Bargaining ("OCB Rules"). On April 6, 1989, the petition was resubmitted, together with proof of service, and was accepted for filing at that time.

Pursuant to Section 7.4 of the OCB Rules, a copy of which is annexed hereto, the undersigned has reviewed the petition and has determined that the improper practice claim asserted therein must be dismissed because it is untimely on its face. Section 7.4 provides, in pertinent part, as follows:

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. . . .

The Petitioner herein alleges that the Respondent "failed to follow proper departmental procedures" when it ordered her employment terminated, effective November 18, 1988. Inasmuch as the allegation relates to an incident that took place on November 18, 1988, and the petition was not filed until April 6, 1989, it is untimely under the provisions of Section 7.4 of the OCB Rules. Accordingly, it must be dismissed.

Even if the petition was not so untimely as to warrant summary dismissal, however, it would be dismissed for failure to state an improper practice under the New York City Collective Bargaining Law. The Collective Bargaining Law does not provide a remedy for every perceived wrong or inequity. Its provisions and procedures are designed to safeguard the rights of public employees that are created by the statute, i.e., the right to organize, to form, join and assist public employee organizations, and the right to refrain from such activities.

The Petitioner herein does not assert that her termination was intended to, or did, affect any of these protected rights. Although an exhibit attached to the petition ("Probationary Correction Officer Evaluation" directive) is mostly illegible, it can be discerned that the directive refers to an amendment in the procedure that Department of Correction officials must follow when terminating a probationary employee. However, the directive does not appear to be, nor does the Petitioner suggest that it is in any way related to statutorily protected employee rights. Since the petition does not appear to involve a matter within the jurisdiction of the OCB, it must be dismissed. Of course, dismissal is without prejudice to any rights that the Petitioner may have in another forum.

DATED: New York, N.Y.  
June 13, 1989

Decision No. B-32-89 (ES)  
Docket No. BCB-1155-89

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Marjorie A. London  
Executive Secretary  
Board of Collective  
Bargaining