

Taubman v. HRA, Dep't of Social Serv., L.1549, DC37, 43 OCB 42  
(BCB 1989) [Decision No. B-42-89 (ES)]

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF COLLECTIVE BARGAINING  
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In the Matter of

SANDRA TAUBMAN,

Petitioner,

Decision No. B-42-89 (ES)

Docket No. BCB-1178-89

-and-

HUMAN RESOURCES ADMINISTRATION,  
DEPARTMENT OF SOCIAL SERVICES, and  
DISTRICT COUNCIL 37, LOCAL 1549,

Respondents.

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DETERMINATION OF EXECUTIVE SECRETARY

On June 21, 1989, Sandra Taubman ("the petitioner") filed a verified improper practice petition with the Office of Collective Bargaining ("OCB") in which she alleged that the Human Resources Administration, Department of Social Services ("the City") violated the New York City Collective Bargaining Law ("the NYCCBL") by fining her five days, pay as a penalty for alleged acts of misconduct and conduct unbecoming an employee. The petitioner also named Local 1549 of District Council 37, American Federation of State, County and Municipal Employees ("the Union") as co-respondent in the petition.

Pursuant to Section 7.4 of the Revised Consolidated Rules of the Office of Collective Bargaining ("OCB Rules"), a copy of which is annexed hereto, I have reviewed the petition and have determined that it does not allege facts sufficient as a matter of law to constitute an improper practice within the meaning of the NYCCBL.

Petitioner alleges that she was harassed and discriminated against by the City because of an injury which the Workers' Compensation Board determined left her permanently partially disabled. The alleged acts of harassment include the City's imposition of the fine of five days, pay after she signed "in protest" a document in which she agreed to accept this recommended penalty and to waive her rights under Civil Service Law, §§75 and 76 or, alternatively, under any collective bargaining agreement between the union which represents her title and the City. Petitioner also suggests that she was harassed by being charged with "running around the building." The petitioner does not allege any wrongful acts by the Union.

Petitioner has failed to allege that the acts complained of violate any specific section of the NYCCBL. However, the petition, as pleaded, has failed to state a claim of improper practice under the NYCCBL against the respondents under any applicable section of the law.<sup>1</sup> The NYCCBL does not provide a

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<sup>1</sup>NYCCBL §12-306a provides that it is an improper practice for a public employer or its agents:

- (1) to interfere with, restrain or coerce public employees in the exercise of their rights granted in section 1173-4.1 [now known as §12-305] of this chapter;
  - (2) to dominate or interfere with the formation or administration of any public employee organization;
  - (3) to discriminate against any employee for the purpose of encouraging discouraging
- (continued...)

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, to bargain collectively through certified public employee organizations, and the right to refrain from such activities. Absent any allegations that the respondents' actions were intended to, or did, affect any of petitioner's rights that are

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(...continued)

membership in, or participation in the activities of, any public employee organization;

(4) to refuse to bargain collectively in good faith on matters within the scope of collective bargaining with certified or designated representatives of it public employees.

Section 12-306b provides that it is an improper practice for a public employee organization or its agents:

(1) to interfere with, restrain or coerce public employees in the exercise of rights granted in section 1173-4.1 (now known as §12-305] of this chapter, or to cause, or attempt to cause, a public employer to do so;

(2) to refuse to bargain collectively in good faith with a public employer on matters within the scope of collective bargaining provided the public employee organization is a certified or designated representative of public employees of such employer.

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protected by the NYCCBL, the petition cannot be entertained by the Board of Collective Bargaining.

Of course, dismissal of this petition is without prejudice to any rights the petitioner may have in another forum.

Dated: New York, New York  
July 31, 1989

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Marjorie A. London  
Executive Secretary  
Board of Collective  
Bargaining