

Balogun v. DOH, S. Schwartz, 43 OCB 45 (BCB 1989) [Decision No. B-45-89 (ES)]

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF COLLECTIVE BARGAINING

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In the Matter of the Improper  
Practice Proceeding

-between-

DECISION NO. B-45-89 (ES)

GANIU O. BALOGUN,

DOCKET NO. BCB-1197-89

Petitioner,

-and-

NEW YORK CITY DEPARTMENT of  
HEALTH and  
STEPHEN SCHWARTZ, Ph.D.,

Respondents.

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### **DECISION AND ORDER**

On August 21, 1989, the Office of Collective Bargaining ("OCB") received a verified improper practice petition from Ganiu O. Balogun ("Petitioner"). The petition alleges that the New York City Department of Health and the Assistant Commissioner of Environmental Health Services of the Department of Health ("Respondent" or "Department") terminated the Petitioner's employment with the Department without giving him a reason, thereby allegedly violating the Petitioner's right to due process.

The alleged improper practice stems from a meeting between the Petitioner and the Assistant Commissioner that occurred on

June 23, 1989, when the Petitioner was advised that his employment was being terminated. According to the Petitioner, when he asked the Assistant Commissioner why he was being dismissed, the Commissioner refused to give him a reason. The Petitioner contends that at no time during his employment with the Department had he been brought up on charges. He seeks reinstatement and a fair hearing in order to "confront [his] accusers against any specific charges which the Department may wish to bring against [him]."

Pursuant to Section 7.4 of the Revised Consolidated Rules of the Office of Collective Bargaining, a copy of which is annexed hereto, the undersigned has reviewed the petition and has determined that it must be dismissed for failure to state an improper practice under the New York City Collective Bargaining Law. The provisions and procedures of the Collective Bargaining Law 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 Law does not provide a remedy for every perceived wrong or inequity. Although the Petitioner contends that he had a right to due process that was violated, he does not assert that the alleged violation was intended to, or did, in fact, affect any of the rights protected by the statute.

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.  
September 1, 1989

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Marjorie A. London  
Executive Secretary  
Board of Collective  
Bargaining

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