

Marrow v. HRA, Stanford (Direc. of Supp. Coll.), et.al, 45 OCB 40
(BCB 1990) [Decision No. B-40-90(ES)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING
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In the Matter of the Improper
Practice Proceeding

-between-

STEVEN MARROW,
Petitioner,

DECISION NO. B-40-90(ES)
DOCKET NO. BCB-1263-90

-and-

PETER C. STANFORD, DIRECTOR
SUPPORT COLLECTION UNIT,
HUMAN RESOURCES ADMINISTRATION and
FRANK OLTON, SUPPORT COLLECTION
UNIT, HUMAN RESOURCE ADMINISTRATION

Respondents.

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DETERMINATION OF EXECUTIVE SECRETARY

On March 19, 1990, Steven Marrow ("petitioner") filed verified improper practice petitions against Peter Stanford, Director of the Support Collection Unit, office of Child Support Enforcement, Human Resources Administration ("HRA") and Frank Olton of the Support Collection Unit at HRA ("respondents"), alleging "false information of charge at Child Support Unit" and that he was "terminated on false discrepancies [b]ecause he was out sick for four days with a Doctor's note."

Pursuant to Section 7.4 of the Revised Consolidated Rules of the Office of Collective Bargaining ("the OCB Rules"), a copy of which is annexed hereto, I have reviewed the petition and have determined that the claim asserted therein must be dismissed because it does not allege facts sufficient as a matter of law to constitute an improper practice within the meaning of Section 12-

306a of the New York City Collective Bargaining Law ("NYCCBL").¹

The NYCCBL does not provide a remedy for every perceived wrong or inequity. Its provisions and procedures are designed to safeguard the rights of public employees set forth therein, i.e., the right to bargain collectively through certified public employee organizations; the right to organize, form, join, and assist 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 protected by the NYCCBL, the petition cannot be entertained by the Board of Collective Bargaining.

¹ Section 12-306a of the NYCCBL states as follows:

Improper public employer practices. It shall be 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 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 or discouraging 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 its public employees.

Accordingly, I find that no improper public employer practice has been stated. Therefore, the petition is dismissed pursuant to Section 7.4 of the OCB Rules. Such dismissal is, of course, without prejudice to any rights petitioner may have in any other forum.

Dated: New York, New York
July 10, 1990

Loren Krause Luzmore
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 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 s-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 sufficient as a matter of law 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) 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.