

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING

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In the Matter of the Improper
Practice Proceeding

-between-

DECISION NO. B-7-92 (ES)

KATHLEEN R. SICARI,
Petitioner,

DOCKET NO. BCB-1446-91

-and-

NEW YORK CITY POLICE DEPARTMENT,
Respondent.

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DETERMINATION OF EXECUTIVE SECRETARY

On December 23, 1991, Kathleen R. Sicari ("the Petitioner") filed a verified improper practice petition against the New York City Police Department ("the Respondent"), in which she alleged that the Respondent violated Section 12-306 of the New York City Collective Bargaining Law ("NYCCBL").¹

¹ NYCCBL §12-306 (formerly §1173-4.2) provides, in pertinent part, as follows:

Improper practices: good faith bargaining.

a. 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 (formerly §1173-4.1) 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.

Specifically, the Petitioner alleged that:

"BACK IN SPRING OF '90 I WAS CALLED A DUMB BITCH, BY ONE OF THE OFFICER'S IN THE K-9 OFFICE. A MISUNDERSTANDING AROSE BETWEEN MYSELF AND THE OTHER PAA. SO AS A JOKE ON HIS BEHALF OFFICER MARSANICO SAID TO FOLLOW HIM OUTSIDE, THERE HE TOLD ME TO CRAWL INTO ONE OF THE KENNELS, AND I DID. HE LOCKED THE KENNEL DOOR AND THAT WAS TO MAKE ME LAUGH. IN THE LATTER PART OF '90, THE LT. FELT THREATENED BY ME BECAUSE I SAW AND HEARD TOO MUCH. MY TRANSFER WAS NOT NECESSARY AT ALL. IT WAS DONE WITHOUT THE LT. IN CHARGE OF PERSONNEL'S BACK. DURING JANUARY OF '91 AND AUGUST 26, 1991 THE HARASSMENT AND THREATS I RECEIVED WHILE I WAS ASSIGNED TO S.O.D. WAS MORE THAN ENOUGH TO PREVENT ME FROM PERFORMING MY JOB PROPERLY, THEREBY BEING SUBJECTED FOR THEIR GROUNDS TO TERMINATE ME."

As a remedy, the Petitioner requests reinstatement and back pay "to compensate all the mental and physical anguish laid upon me during that time."

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, the undersigned has reviewed the petition and has determined that most of the acts complained of are untimely on their face because they occurred more than four months prior to the filing of the petition. Section 7.4 provides, in pertinent part, as follows:

A petition alleging that a public employer or its agents ... has engaged in or is engaging in an improper practice in violation of Section [12-306] of the statute may be filed with the Board within four (4) months thereof

Since the petition was filed on December 23, 1991, any act or incident that occurred before August 23, 1991 is untimely under the provisions of Section 7.4 of the OCB Rules. Thus, the only allegation that is within the statutory time limit is the Petitioner's claim that, on August 26, 1991, she was harassed and threatened.

However, even if most of the acts or events complained of were not so untimely as to warrant summary dismissal, none of them allege facts sufficient as a matter of law to constitute an improper practice within the meaning of the New York City Collective Bargaining Law. 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.

I note that even if the untimely incidents were considered as background information in support of the August 26, 1991 allegation, the petition still fails to state an improper practice under the NYCCBL. The Petitioner does not assert that her alleged treatment by the Police Department was intended to, or did, affect any of the rights protected by NYCCBL §12-306a.

Since none of the allegations set forth in the petition involve a matter within the jurisdiction of the OCB, the petition must be dismissed. I note, however, that dismissal is without prejudice to any rights that the Petitioner may have in another forum.

DATED: New York, New York
March 6, 1992

Loren Krause Luzmore
Executive Secretary
Board of Collective
Bargaining

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