

Begum v. Faulkner (Manager Radiology), et. al, 51 OCB 1 (BCB 1993) [Decision No. B-1-93 (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-1-93 (ES)

SHAMIMA BEGUM,

DOCKET NO. BCB-1502-92

Petitioner,

-and-

HAZEL K. FAULKNER, MANAGER RADIOLOGY
and GUY SAMUEL, LABOR RELATIONS
OFFICER,

Respondents.

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DETERMINATION OF EXECUTIVE SECRETARY

On June 10, 1992 and June 16, 1992, the Office of Collective Bargaining ("OCB") received a verified improper practice petition from Shamima Begum ("Petitioner"), which it did not accept for filing because the Petitioner failed to submit proof of service of the petition on the Respondents, as required by Title 61, Section 1-07(f) of the Rules of the City of New York. On June 22, 1992, the petition was submitted for a third time, together with proof of service, and was accepted for filing at that time.

In her petition, Petitioner, a provisional Office Aide, alleged that the decision to terminate her from the Bronx Municipal Hospital Center was based on racial and religious discrimination. Petitioner claimed that she performed her job in a satisfactory manner, and the decision to release her from service was biased and unjust.

On July 6, 1992, the Petitioner submitted supplementary evidence into the record, in the form of certificates of appreciation for voluntary service at Bronx Municipal Hospital Center, purporting to show that she had performed her job at the hospital satisfactorily.

Pursuant to Section 1-07(d) of the Rules of the City of New York, 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 fails to state an improper practice under the New York City

Collective Bargaining Law ("NYCCBL").

The provisions and procedures of the NYCCBL 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 NYCCBL does not provide a remedy for every perceived wrong or inequity. Although the Petitioner contends that her employment was wrongfully terminated, she does not assert that the alleged violation was intended to, or did, in fact, affect any of the rights protected by Section 12-306a.¹ of the statute, which defines improper public employer practices.

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.
January 4, 1993

Loren Kraus Luzmore
Executive Secretary
Board of Collective Bargaining

¹ NYCCBL §12-306a. (Formerly 1173-4.2) provides 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.