

Dillhunt v. Kriss, Collins & Paige, 53 OCB 26 (BCB 1994) [Decision No. B-26-94 (ES)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING

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In the Matter of the Improper
Practice

-between-

ISAAH J. DILLHUNT,

Petitioner,

DECISION NO. B-26-94(ES)

DOCKET NO. BCB-1667-94

- and -

ARNOLD N. KRISS, JOSEPH E. COLLINS
AND CARLOTTA B. PAIGE,

Respondents.

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DETERMINATION OF EXECUTIVE SECRETARY

On July 26, 1994, Isaiah J. Dillhunt ("the petitioner") filed a verified improper practice petition against Arnold N. Kriss, Joseph E. Collins and Carlotta B. Paige ("the respondents"). The respondents are members of the Personnel Review Board ("PRB") of the New York City Health and Hospitals Corporation.¹ The petitioner alleges that the PRB violated its own "codes of conduct" when it:

"... modified [the] original ruling of its own personnel [hearing examiner] and, in effect, denied me compensation for an unjust termination."

As a remedy, the petitioner asks that the PRB reinstate its initial ruling and grant him "full and complete compensation of retroactive pay and benefits and seniority."

Pursuant to Title 61, § 1.07(d) of the Rules of the City of New York, 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 New

¹ The PRB was created pursuant to §7390, subd. 8 of the New York State Unconsolidated Laws.

York City Collective Bargaining Law ("NYCCBL"). The petition does not allege that the respondents have committed any acts in violation of Section 12-306a of the NYCCBL, which defines improper public employer practices.²

It appears here that the petitioner, dissatisfied with a decision of the PRB, is attempting to bring an appeal of that administrative determination before the Board of Collective Bargaining ("the Board"). It is well-settled that alleged violations of laws external to the NYCCBL, such as the New York State Unconsolidated Laws, are not within the jurisdiction of the Board and must be raised in the courts or other appropriate forums.³

It should be noted that 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: the right to bargain collectively through certified public employee

² Section 12-306 of the NYCCBL provides, in relevant part:

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 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.

* * *

Section 12-305 of the NYCCBL provides, in relevant part:

Rights of public employees and certified employee organizations. Public employees shall have the right to self-organization, to form, join or assist public employee organizations, to bargain collectively through certified employee organizations of their own choosing and shall have the right to refrain from any or all of such activities....

³ E.g., Decision No. B-14-83.

organizations; the right to organize, form, join and assist public employee organizations; and the right to refrain from such activities.

Since it is not alleged that the respondents' actions were intended to, or did, affect any of the rights that are protected by the NYCCBL, the petition must be dismissed in its entirety. This dismissal is without prejudice, however, to rights the petitioner may have in any other forum.

Dated: New York, New York
November 1, 1994

Wendy E. Patitucci
Executive Secretary
Board of Collective Bargaining