

Urban v. DOT, DC37, 57 OCB 48 (BCB 1996) [Decision No. B-48-96 (ES)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING

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In the Matter of the Improper
Practice Proceeding

-between-

Diana L. Urban,

Petitioner,

DECISION NO. B-48-96 (ES)

DOCKET NO. BCB-1850-96

-and-

Department of Transportation,
District Council 37,

Respondents.

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DETERMINATION OF EXECUTIVE SECRETARY

On July 15, 1996, Diana L. Urban ("Petitioner") filed a verified improper practice petition pursuant to 12-306 of the New York City Collective Bargaining Law ("NYCCBL"),¹ naming the New York City Department of Transportation and District Council 37, AFSCME, AFL-CIO as Respondents. In her petition, Petitioner did not set forth a statement of the nature of the controversy but instead referred only to attached documents.

Pursuant to Title 61, §1-07(d) of the Rules of the City of New York ("RCNY"), a copy of which is annexed hereto, the

¹ NYCCBL §12-306(a) prohibits improper public employer practices; NYCCBL §12-306(b) prohibits improper public employee organization practices.

undersigned has reviewed the petition and has determined that it does not meet the minimum pleading requirements set forth in the rules of the Office of Collective Bargaining ("OCB"). RCNY §1-07 provides, in pertinent part, as follows:

(e) Petition-contents. A petition filed pursuant to §§1-07(b), (c) or (d) shall be verified and shall contain:

- (1) The name and address of the petitioner;
- (2) The name and address of the other party (respondent);
- (3) A **statement of the nature of the controversy**, specifying the provisions of the statute, executive order or collective agreement involved, and any other relevant and material documents, dates and facts. If the controversy involves contractual provisions, such provisions shall be set forth;
- (4) Such additional matters as may be relevant and material. [Emphasis added.]

The "statement of the nature of the controversy" referred to in RCNY §1-07(e) (3) above should consist of a clear and concise statement of the facts constituting the alleged improper practice and should include, but not be limited to, the names of the individuals involved in the particular act alleged and the date and place of occurrence of each particular act alleged. The statement may be supported by attachments which are relevant and material but can not consist solely of such attachments.

The mere submission of multiple documents, in lieu of a concisely stated charge setting forth factual allegations which, if established, might constitute a violation of the NYCCBL, does not satisfy the requirements of the RCNY. It is not properly the

role of the Executive Secretary to search through such documents in an effort to discern and articulate the existence of a charge.²

For the above reasons, the petition must be dismissed as procedurally defective. Dismissal of the petition, however, is without prejudice to resubmission of a petition for reconsideration by the Executive Secretary which does satisfy the minimum pleading requirements set forth in RCNY §1-07(e), within ten (10) days upon receipt of this determination. In the event the Petitioner does so, the charge(s) will be timely only as to conduct which occurred within four months of July 15, 1996, the date that the instant petition was filed with the OCB.

Dated: New York, New York
November 29, 1996

Wendy E. Patitucci
Executive Secretary
Board of Collective Bargaining

² Linda Orlando v. State of New York & CSEA, 29 PERB ¶3054 (1996).