

Abdal-Rahim v. L. 237, IBT, L. 983, DC 37 & NYCHA, 59 OCB 32 (BCB 1997) [Decision No. B-32-97 (ES)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING

-----X
In the Matter of the Improper Practice Proceeding :
 :
-between- :
 :
Aladdin Abdal-Rahim, pro se :
 :
Petitioner, :
 :
-and- :
 :
Local 237, International Brotherhood of Teamsters; Local 983, District Council 37, AFSCME; New York City Housing Authority, :
 :
Respondents. :
-----X

DETERMINATION OF EXECUTIVE SECRETARY

On April 22, 1997, Aladdin Abdal-Rahim, pro se ("Petitioner") filed a verified improper practice petition pursuant to §12-306 of the New York City Collective Bargaining Law ("NYCCBL"), against Local 237, International Brotherhood of Teamsters ("L. 237"); Local 983, District Council 37, AFSCME ("DC 37"); and the New York City Housing Authority ("NYCHA"). Petitioner alleges that his employment was terminated on November 12, 1993, without "cause, reason, notice, progressive discipline, or §75 charges of incompetency or misconduct." Petitioner further alleges that the L. 237 and DC 37 refused to represent him, in breach of their "fiduciary duty of fair representation." As a remedy, Petitioner requests reinstatement to his permanent

civil service title of Housing Supply Handler, with all attendant civil service seniority, status benefits and back pay.

Pursuant to Title 61, §1-07(d) of the Rules of the City of New York ("OCB Rules"), a copy of which is annexed hereto, the undersigned has reviewed the petition and has determined that it is untimely on its face. Under §1-07(d) of the OCB Rules, a petition alleging conduct in violation of §12-306 of the NYCCBL¹ must be filed within four (4) months of the date that the alleged improper practice occurred. In the instant case, the petition, which was filed on April 22, 1997, complains of alleged action and/or inaction by the Respondents relating to the termination of Petitioner's employment on or around November 12, 1994. Since the acts complained of occurred more than four months prior to the filing of the instant petition, these allegations are

¹ NYCCBL §12-306a, in relevant part, provides that it is an improper practice for a public employer or its agents:

(1) to interfere with, restrain or coerce public employees in the exercise 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;....

NYCCBL §12-306b, in relevant part, provides that it is an improper practice for a public employee organization or its agents:

(1) to interfere with, restrain or coerce public employees in the exercise of rights granted in section 12-305 of this chapter, or to cause, or attempt to cause, a public employer to do so;....

untimely and cannot be maintained.²

Accordingly, the improper practice petition is dismissed in its entirety. Such dismissal is, of course, without prejudice to any rights Petitioner may have in any other forum.

Dated: New York, New York
July 3, 1997

Wendy E. Patitucci
Acting Executive Secretary
Board of Collective Bargaining

² Petitioner includes among the many attachments to the petition, a request for "Civil Service Reinstatement," dated September 5, 1996, and a letter from the NYCHA that denies this request, dated January 1, 1997. The fact that the NYCHA's letter was written within four months of the filing of the instant petition does not rehabilitate already stale claims.