

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING

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In the Matter of the Improper :
Practice Proceeding :
 :
-between- :
 :
Nadine S. Farrell, :
 :
Petitioner, : DECISION NO. B-19-98(ES)
 :
-and- : DOCKET NO. BCB-1975-98
 :
 :
District Council 37, Local 2021 and :
New York City Off-Track Betting Corp. :
 :
Respondents. :
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DETERMINATION OF EXECUTIVE SECRETARY

On April 15, 1998, Nadine S. Farrell ("Petitioner") filed a verified improper practice petition pursuant to 12-306 of the New York City Collective Bargaining Law ("NYCCBL"),¹ naming District Council 37, Local 2021 ("Union") and the New York City Off-Track Betting Corporation ("OTB") as Respondents. In her petition, Petitioner states:

I was denied the following:

1. Due process
2. Arbitration
3. Exercising my contractual and civil rights

Improprieties; (see documents)

1. Illegal suspension
2. Illegal medical leave

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

3. Illegal termination

The documents attached to the petition include a suspension notice and several personnel action forms that apparently relate to the suspension, a medical leave of absence, and the termination of Petitioner's employment.

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 undersigned has reviewed the petition and has determined that it does not meet the minimum pleading requirements set forth in the RCNY. 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 mere allegation that the Petitioner's employment was terminated and that she was denied due process, arbitration, and contractual and civil rights, 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.

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 April 15, 1998, the date that the instant petition was filed with the Office of Collective Bargaining.

Dated: New York, New York
June 23, 1998

Victoria A. Donoghue
Executive Secretary
Board of Collective Bargaining