

Saddler v. L. 371, SSEU & Human Rts Comm., 61 OCB 24 (BCB 1998) [Decision No. B-24-98 (IP)]

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF COLLECTIVE BARGAINING

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In the Matter of the Improper :  
Practice Proceeding :  
 :  
-between- :  
 :  
Sandy Saddler, :  
 : DECISION NO. B-24-98(ES)  
Petitioner, :  
 : DOCKET NO. BCB-2002-98  
-and- :  
 :  
Social Service Employees Union, :  
Local 371, AFSCME, AFL-CIO and the :  
City Commission on Human Rights :  
 :  
Respondents. :  
 :  
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DETERMINATION OF EXECUTIVE SECRETARY

On July 8, 1998, Sandy Saddler ("Petitioner") filed a verified improper practice petition pursuant to 12-306b of the New York City Collective Bargaining Law ("NYCCBL"),<sup>1</sup> naming Local 371, Social Service Employees Union ("Union"), and the City Commission on Human Rights ("Commission") as Respondents. In her petition, Petitioner alleges that the Union breached its duty of fair representation; no dates indicating when the alleged breach occurred are set forth in the petition.

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

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<sup>1</sup> NYCCBL §12-306(b) prohibits improper public employee organization practices.

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 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 mere allegation of a breach of the duty of fair representation, in lieu of a concisely stated charge setting forth factual allegations, including dates, 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

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which occurred within four months of July 8, 1998, the date that the instant petition was filed with the OCB.

Dated: New York, New York  
August 7, 1998

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Victoria A. Donoghue  
Executive Secretary  
Board of Collective Bargaining