

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING

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In the Matter of the Improper Practice Proceeding :

 -between- :

Rita King, *pro se* : Decision No. B-38-1999(ES)

 Petitioner, : Docket No. BCB-2092-99

 -and- :

Communications Workers of America, Local 1180 :

 Respondent. :
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DETERMINATION OF EXECUTIVE SECRETARY

On September 8, 1999, Rita King, *pro se* (“Petitioner”) filed a verified improper practice petition alleging a violation of Section 12-306b(1), (2), and (3) of the New York City Collective Bargaining Law (“NYCCBL”),¹ in which she named the Communications Workers of America,

¹ Section 12-306b of the NYCCBL provides:
b. Improper public employee organization practices. It shall be 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;
- (2) to refuse to bargain collectively in good faith with a public employer on matters within the scope of collective bargaining provided the public employee organization is a certified or designated representative of public employees or such employer;
- (3) to breach its duty of fair representation to public employees under this chapter.

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

(continued...)

Local 1180 (“Union”),² as Respondent. As to the nature of the controversy, the Petitioner alleges that on May 26, 1999, her union representative stated that she did not wish to proceed to arbitration on the Petitioner’s behalf because “it was a losing battle.” Furthermore, the Petitioner alleges that in July, 1999, her union representative stated “that arbitration was being denied due to a [p]reponderance of the [e]vidence against [the] Petitioner. . . .” Petitioner also complains that in August, 1999, her union representative asked her “to drop her charges with the E.E.O. in exchange for re-employment, the employer’s allowance for Petitioner’s unemployment benefits claim and agreement that suspension was justified.” As a remedy, Petitioner requests that the Office of Collective Bargaining penalize Respondent in whatever manner it deems to be appropriate. The Petitioner also requests compensation in the amount of fifteen thousand dollars (\$15,000) for any “undue anxieties” that she may have suffered.

Pursuant to Title 61, §1-07(d), of the Rules of the City of New York, a copy of which is annexed hereto, the undersigned has reviewed the petition and has determined that it does not allege facts sufficient as a matter of law to constitute an improper practice within the meaning of §12-306 of the NYCCBL. The NYCCBL does not provide a remedy for every perceived wrong or inequity.

¹(...continued)

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....

² Although the Petitioner named Local 1180 as the Respondent, it appears that the petition was served upon the President of Local 1182 of the Communications Workers of America.

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

The Petitioner has failed to allege that the Union violated any rights that are protected under the NYCCBL. Absent an allegation that the Union's actions were intended to, or did, "interfere with, restrain or coerce Petitioner in the exercise of her rights granted in section 12-305 of this chapter, or to cause or to attempt to cause, a public employer to do so" [NYCCBL Section 12-306b(1)]; or that the Union "breach[ed] its duty of fair representation" [NYCCBL Section 12-306b(3)], the Petitioner's claims do not fall within the jurisdiction of the Board of Collective Bargaining.³

Since the Petitioner has not stated any claims arising under NYCCBL, the petition herein shall be dismissed. Such dismissal is, of course, without prejudice to any rights that the Petitioner may have in any other forum.

Dated: New York, New York
September 21, 1999

Wendy E. Patitucci
Acting Executive Secretary
Board of Collective Bargaining

³ While the petition also cites NYCCBL Section 12-306b(2) as violated, Petitioner lacks standing to assert such a claim. The duty to bargain under this section of the statute runs between the employer and the certified or designated representative of the employees.