

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING

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In the Matter of the Improper Practice Proceeding :

-between- :

Carletta Thompson, *pro se*, : Decision No. B-4-2000 (ES)
Petitioner, : Docket No. BCB-2113-00

-and- :

NYC Department of Probation, :
Respondent. :
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DETERMINATION OF EXECUTIVE SECRETARY

On January 10, 2000, Carletta Thompson, *pro se* (“Petitioner”) filed a verified improper practice petition alleging a violation of Section 12-306e of the New York City Collective Bargaining Law (“NYCCBL”),¹ in which she names the New York City Department of Probation as Respondent. As to the nature of the controversy, the Petitioner sets forth several complaints concerning the Respondent’s alleged failure to acknowledge and reasonably accommodate various disabilities, i.e., Carpal Tunnel Syndrome, lower back pain, and headaches. Chief among Petitioner’s complaints are the improper denial of sick leave, the improper docking of her paycheck, the failure to provide ergonomically correct chairs and headset, the failure to grant

¹ NYCCBL §12-306e provides, in relevant part:

A petition alleging that a public employer or its agents ... has engaged in or is engaging in an improper practice in violation of this section may be filed with the board of collective bargaining within four months of the occurrence of the acts alleged to constitute the improper practice or of the date the petitioner knew or should have known of said occurrence. ...

transfer requests and harassment by coworkers. Appended to the petition was a three-inch looseleaf binder filled with various documents relative to the Petitioner's character, disability and employment with the Respondent. The petition does not specify the relief sought.

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 allege facts sufficient as a matter of law to constitute an improper practice within the meaning of the NYCCBL. Petitioner alleges that she is suffering from various disabilities and that her requests for a reasonable accommodation from her employer have been denied. Even assuming the truth and accuracy of Petitioner's allegations, it does not appear that the acts she complains of were taken for any of the proscribed reasons set forth in the NYCCBL.

The NYCCBL does not provide a remedy for every perceived wrong or inequity. Its provisions and procedures are designed to safeguard the rights of public employees set forth therein, *i.e.*, 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.

In the instant case, Petitioner has failed to state any facts which show that the Department of Probation may have committed any acts which constitute an improper public employer practice under §12-306a of the NYCCBL;² nor has Petitioner alleged that the Department's

² Section 12-306a of the NYCCBL provides:

Improper public employer practices. It shall be an improper practice for a public employer or its agents:

(continued...)

actions were intended to, or did, affect rights protected under §12-306a of the NYCCBL.

Therefore, I find that the instant claim against the Department does not fall within the jurisdiction of the Board of Collective Bargaining.

Accordingly, for the above reasons, the petition must be dismissed. Dismissal of the petition, of course, is without prejudice to any rights the Petitioner may have in another forum.

Dated: New York, New York
February 23, 2000

Victoria A. Donoghue
Executive Secretary

²(...continued)

- (1) to interfere with, restrain or coerce public employees in the exercise of their rights granted in § 12-305 of this chapter;
- (2) to dominate or interfere with the formation or administration of any public employee organization;
- (3) to discriminate against any employee for the purpose of encouraging or discouraging membership in, or participation in the activities of, any public employee organization;
- (4) to refuse to bargain collectively in good faith on matters within the scope of collective bargaining with certified or designated representatives of its public employees.
- (5) to unilaterally make any change as to any mandatory subject of collective bargaining or as to any term and condition of employment established in the prior contract, during a period of negotiations with a public employee organization as defined in subdivision d of section 12-311 of this chapter.