Washington v. Dept. of buildings, 67 OCB 6 (BCB 2001) [Decision No. B-6-2001]
OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING
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In the Matter of the Improper Practice Proceeding

-between-

KENNETH WASHINGTON,   Decision No. B-6-2001 (ES)
                                                       Docket No. BCB-2178-01
                              Petitioner,

-and-

DEPARTMENT OF BUILDINGS,

                              Respondent.
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DETERMINATION OF EXECUTIVE SECRETARY

On January 17, 2001, Kenneth Washington, *pro se,* filed a verified improper practice

petition pursuant to Section 12-306 of the New York City Collective Bargaining Law (New York

City Administrative Code, Title 12, Chapter 3) ("NYCCBL"),[1] against the Department of

Buildings ("Respondent"). As to the nature of the controversy, petitioner alleges that respondent

has "continuously discriminated, harassed, and treated Petitioner . . . differently because he filed

grievances against Respondent with Local 1042, Pavers and Roadbuilders District Council . . .

and because he sought to apply the terms of the collective bargaining agreement between Local

1042 and the City of New York." As a remedy, petitioner requests that respondent cease and

desist from interfering with petitioner's rights under NYCCBL § 12-305.

Pursuant to § 1-07(d) of the Rules of the Office of Collective Bargaining (Rules of the

City of New York, Title 61, Chapter 1) ("OCB Rules"), a copy of which is annexed hereto, the

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[1] NYCCBL § 12-306a prohibits improper public employer practices.

undersigned has reviewed the petition and has determined that it does not meet the minimum

pleading requirements set forth in the OCB Rules. OCB Rule § 1-07(e) provides, in pertinent

part:

> A petition filed pursuant to §§ 1-07(b), (c) or (d) shall be verified and shall contain:
>
> > (1) The name, address, telephone number . . . 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 a clear and concise statement of the facts. . . . If the
> > controversy involves an alleged improper practice, such statement
> > shall include but not be limited to the names of the individuals involved
> > in the particular act alleged and the date and place of the occurrence
> > of each particular act alleged. . . . 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 OCB Rule § 1-07(e)(3)

should consist of a clear and concise statement of the facts constituting the alleged improper

practice and should include the names of the individuals involved in the particular act alleged

and the date and place of occurrence of each particular act alleged. The statement may be

supported by attachments which are relevant and material but cannot consist solely of such

attachments. The mere allegation of discrimination or harassment, in lieu of a concisely stated

charge setting forth factual allegations (including names, dates, and places), which, if established,

might constitute a violation of the NYCCBL, does not satisfy the requirements of the OCB

Rules. In other words, to satisfy the Rules, a statement should explain ***what*** the acts of alleged

discrimination and/or harassment were, **who** committed the acts, **when** they occurred, and **how**

they were related to the alleged protected activity, for example, the filing of grievances.

For the above reasons, the petition must be dismissed as procedurally defective.

Dismissal of the petition, however, is without prejudice to petitioner's right to resubmit, within

ten (10) business days after receipt of this determination, a petition that does satisfy the minimum

pleading requirements set forth in OCB Rule § 1-07(e).[2] In the event that petitioner does

resubmit, the Executive Secretary will reconsider the petition, and the charge(s) will be timely

only as to conduct which occurred within four months of January 17, 2001, the date that the

instant petition was filed with the Office of Collective Bargaining.

Dated: New York, New York
       January 30, 2001

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Steven C. DeCosta
Acting Executive Secretary

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[2] If such an amended petition is resubmitted, it must also comply with the other
requirements of the OCB Rules, including verification and proof of service on the designated
agent for the Respondent.