STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL

Service Employees International Union, Local 73,	)	
Charging Party,	)	
	)	Case No. L-CA-13-035
and	)	
County of Cook,	)	
Respondent.	)	

ORDER

On March 14, 2016, Administrative Law Judge Sarah Kerley, on behalf of the Illinois Labor Relations Board, issued a Recommended Decision and Order in the above-captioned matter. No party filed exceptions to the Administrative Law Judge's Recommendation during the time allotted, and at its July 12, 2016 public meeting, the Board, having reviewed the matter, declined to take it up on its own motion.

THEREFORE, pursuant to Section 1200.135(b)(5) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1200.135(b)(5), the parties have waived their exceptions to the Administrative Law Judge's Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.

Issued in Springfield, Illinois, this 13th day of July, 2016.

STATE OF ILLINOIS
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/s/ Kathryn Zeledon Nelson
Kathryn Zeledon Nelson
General Counsel

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ADMINISTRATIVE LAW JUDGE'S DEFERRAL ORDER

On November 1, 2012, Service Employees International Union, Local 73 (Union) filed an unfair labor practice charge with the Local Panel of the Illinois Labor Relations Board (Board) alleging that the County of Cook (County) engaged in unfair labor practices wihtin ghe meaning of Section 10(a) of the the Illinois Public Labor Relations Act (Act), 5 ILCS 315/10(a) (2014), as amended by (1) unilaterally changing the past practice of when it began paying employees added to an existing bargaining unit in accordance with the parties' collective bargaining agreement, (2) failing to respond to the Union's request for relevant information concerning that change, and (3) failing to implement the parties' tentative successor collective bargaining agreement. The charge was investigated in accordance with Section 11 of the Act, and on March 25, 2013, the Board's Executive Director issued a Complaint for Hearing concerning the alleged tentative agreement. On the same day, the Executive Director issued a partial dismissal dismissing the alelgations regarding the alleged unilateral change and failure to provide information. The Union timely appealed the Executive Director's dismissal. In June 2013, the Board's Local Panel reversed the dismissal and directed that the Board issue a complaint as to the remaining issues. Cnty. of Cook, 30 PERI ¶ 25 (IL LRB-LP 2013).

The matter was assigned to Administrative Law Judge Thomas Allen. In summer of 2015, ALJ Allen informed the parties that he was considering whether to defer the present case to the parties' contractual grievance procedure. After some back and forth, in February 2016, ALJ Allen learned from the Union and the County that neither party objected to deferring this matter to the parties grievance procedure. As of the date of ALJ Allen's departure from the

Board in February 2016, no deferral order had been entered. This matter has been reassigned to the undersigned ALJ.

On March 14, 2016, the Union filed an unopposed Motion for Deferral. The Board's rules require a party to move for deferral within 25 days of the Board's issuance of a Complaint. 80 Ill. Adm. Code § 1220.65(b)(2). However, upon review of this case, it appears that deferral is both otherwise procedurally appropriate, 80 Ill. Adm. Code § 1220.65(a), in that deferral on the Board's own motion has no timeliness requirements. Similarly, deferral is also substantively appropriate. The Board has long recognized the value of deferring matters to the parties' arbitration of contractual grievances. See City of Mt. Vernon, 4 PERI ¶2006 (IL SLRB 1988) (the Board adopted the NLRB's pre-arbitral deferral standard set out in Dubo Mfg. Corp., 142 NLRB 431 (1963)). To satisfy the test for a Dubo deferral, the Board must find that (1) the parties have already voluntarily submitted their dispute to their agreed-upon grievance arbitration procedure; (2) that procedure culminates in final and binding arbitration; and (3) there exists a reasonable chance that the arbitration process will resolve the dispute. State of Ill. Dep't. of Cent. Mgmt. Serv. (Dep't. of Human Serv.), 19 PERI ¶ 114 (IL LRB-SP 2003); City of Chicago, 10 PERI ¶ 3001 (IL LLRB 1993); City of Mt. Vernon, 4 PERI ¶ 2006; Dubo Mfg. Corp., 142 NLRB 431.

Here, the parties do not object to deferring this matter to the arbitration process or otherwise contest that deferral is both procedurally and substantively appropriate. Similarly, I find that the first prong of the Dubo test is easily satisfied by the fact that there is an arbitration hearing scheduled for March 30 and 31, 2016. Moreover, as recently as August 2015, the Board has found that the contractual grievance procedure between these two parties culminates in final and binding arbitration. See Cnty. of Cook, 32 PERI ¶ 29 (IL LRB-LP 2015). Finally, because the underlying issues are amenable to arbitration, I find that the third prong is also satisfied. In short, I agree with ALJ Allen and the parties that deferral in this case is appropriate.

I. ORDER

IT IS HEREBY ORDERED the present unfair labor practice charge shall be deferred to arbitration. The Complaint in Case No. L-CA-13-035 will be held in abeyance until the parties have fully completed the grievance arbitration process. Within 30 days after the termination of that process, a party may notify the Board of the termination and request that the Board review

the award to determine whether to defer to the arbitrator's disposition. A party's request should contain a copy of the award along with a detailed statement of the facts and circumstances bearing on whether the proceedings were fair and regular and whether the award is consistent with the purposes and policies of the Act. If a party fails to make such a request within the time specified, the Board may dismiss the Complaint upon request of another party or on the Board's own motion. It is also ordered that the parties inform the Board of any significant delay in the arbitration process or of any resolution of the matter prior to issuance of an award.

II. EXCEPTIONS

Pursuant to Section 1200.135 of the Board's Rules, parties may file exceptions to the Administrative Law Judge's Recommended Decision and Order and briefs in support of those exceptions no later than 30 days after service of this Recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 15 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's Recommendation. Within 7 days from the filing of cross-exceptions, parties may file cross-responses to the cross-exceptions. Exceptions, responses, cross-exceptions, and cross-responses must be filed with the General Counsel of the Illinois Labor Relations Board, 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103, and served on all other parties. Exceptions, responses, cross-exceptions, and cross-responses will not be accepted at the Board's Springfield office. The exceptions and/or cross-exceptions sent to the Board must contain a statement listing the other parties to the case and verifying that the exceptions and/or cross-exceptions have been provided to them. The exceptions and/or cross-exceptions will not be considered without this statement. If no exceptions have been filed within the 30-day period, the parties will be deemed to have waived their exceptions.

Issued at Springfield, Illinois this 14 th day of March, 2016.

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL

/s/ Sarah Kerley
Sarah Kerley
Administrative Law Judge