

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL**

Michael J. Conroy,)	
)	
Charging Party,)	
)	
and)	Case No. L-CA-16-020
)	
City of Chicago (Fire Department),)	
)	
Respondent.)	

**DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL**

On July 11, 2016, Administrative Law Judge Anna Hamburg-Gal issued a Recommended Decision and Order entering a default judgment against the City of Chicago (Fire Department) (Respondent) in a case involving a charge filed by Michael Conroy (Charging Party) on September 4, 2015, and amended on October 19, 2015. The charge alleged that the Respondent engaged in unfair labor practices within the meaning of Section 10(a) of the Illinois Public Labor Relations Act, 5 ILCS 315/10(a) (2014) *as amended*, when it disciplined, reassigned, and implemented investigations against Conroy based on his protected concerted activity.

Respondent filed timely exceptions of the Administrative Law Judge’s Recommended Decision and Order pursuant to Section 1200.135(b) of the Board’s Rules and Regulations, 80 Ill. Adm. Code § 1200.135(b). The Charging Party did not file a response. After reviewing the record and appeal, we affirm the Administrative Law Judge’s Recommended Decision and Order for the reasons stated in that document.

BY THE ILLINOIS LABOR RELATIONS BOARD, LOCAL PANEL

/s/ Robert M. Gierut
Robert M. Gierut, Chairman

/s/ Charles E. Anderson
Charles E. Anderson, Member

/s/ Richard A. Lewis
Richard A. Lewis, Member

Decision made at the Local Panel's public meeting in Chicago, Illinois on October 4, 2016,
written decision issued in Chicago, Illinois on October 28, 2016.

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL**

Michael J. Conroy,)	
)	
Charging Party)	
)	Case No. L-CA-16-020
and)	
)	
City of Chicago (Fire Department),)	
)	
Respondent)	

ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION AND ORDER

On September 4, 2015, Michael J. Conroy (Charging Party or Conroy) filed a charge pursuant to Section 11 of the Illinois Public Labor Relations Act, 5 ILCS 315 (2014) as amended (Act), and the Rules and Regulations of the Illinois Labor Relations Board 80 Ill. Admin. Code parts 1200 through 1300 (Rules). Conroy amended his charge on October 19, 2015. The charge alleged that the City of Chicago, Fire Department (Respondent) violated Sections 10(a)(2) and (1) of the Act by discriminating against Conroy for initiating or filing OSHA complaints and raising safety concerns at the workplace. It also alleged that the Respondent violated Sections 10(a)(3) and (1) of the Act by discriminating against Conroy for filing a charge with the Board.

The charge was investigated in accordance with Section 11 of the Act and on May 31, 2016, the Executive Director of the Illinois Labor Relations Board (Board) issued a Complaint for Hearing. The Complaint contained the following statement:

RESPONDENT IS HEREBY NOTIFIED that pursuant to Section 1220.40(b) of the Board’s Rules and Regulations, 80 Ill. Admin. Code §§1200-1300, it must file an answer to this complaint with Anna Hamburg-Gal, 160 N. LaSalle St., Ste. S-400, Chicago, IL 60601, and serve a copy thereof upon Charging Party within 15 days after service of the complaint upon it. Said answer shall include an express admission, denial or explanation of each and every allegation of this complaint. Failure to specifically respond to an allegation shall be deemed an affirmative admission of the facts or conclusions alleged in the allegation. Failure to timely file an answer shall be deemed to be an admission of all material facts or legal conclusions alleged and a waiver of hearing. The filing of any motion or other pleading will not stay the time for filing an answer.

The Respondent should have filed an Answer post-marked no later than June 20, 2016,

pursuant to Sections 1220.40(b) and 1200.30 of the Board's Rules. Under Section 1220.40(b) of the Rules, the Respondent was required to submit an answer to the complaint within 15 days of service. 80 Ill. Admin. Code 1220.40(b). Section 1200.30(c) of the Rules provides that a document is presumed served on a party three days after it is mailed. 80 Ill. Admin Code 1200.30(c). In computing any period of time prescribed by the Act or Part 1200 of the Rules, "the designated period of time begins to run the day after the act, event, or default and ends on the last day of the period so computed." 80 Ill. Admin. Code 1200.30(a). In addition, "when a time period prescribed under the Act or [Part 1200 of the Rules] is less than 7 days, intervening Saturdays, Sundays, or legal holidays shall not be included." 80 Ill. Admin. Code § 1200.30. Finally, the rule states that "if the last day falls on a Saturday, Sunday, or legal holiday, the time period shall be automatically extended to the next day that is not a Saturday, Sunday or legal holiday." *Id.* Applying these rules, service on Respondent was presumed effective on Friday, June 3, 2016.¹ The Respondent should have filed an answer within fifteen days of June 3, 2016, in other words, no later than June 20, 2016, as June 18, 2016 was a Saturday.

As of June 28, 2016, the Respondent had filed no answer. Accordingly, on that date, I issued an Order to Show Cause (Order) to the Respondent via email as to why a Default Judgment should not issue for the Respondent's failure to file a timely answer. The Respondent's response to the Order was due by close of business on July 8, 2016.

On July 5, 2016, the Respondent filed a response to the Order and a motion requesting leave to file the Respondent's answer and affirmative defenses to the complaint *instanter*.²

I. Issues and Contentions

The issue is whether the Respondent should be allowed to file a late answer pursuant to Section 1220.40(b) of the Board's rules.

The Respondent asserts that extraordinary circumstances justify allowing a late answer. Respondent's counsel notes that she inadvertently entered the wrong filing date on her calendar.

¹ Under *City of St. Charles*, the addressee may rebut the presumption of service with sufficient evidence that actual delivery occurred at a later date. *City of St. Charles v. Ill. Labor Rel. Bd.*, 395 Ill. App. 3d 507 (2nd Dist. 2009). Respondent does not deny that it received service of the document on June 3, 2016.

²The document was entitled "Respondent's Response to the ALJ's Order to Show Cause and Motion Requesting Leave to File Respondent's Answer and Affirmative Defenses to the Complaint for Hearing for Charge No. L-CA-16-020, *Instanter*."

Furthermore, she states that if she had realized the correct due date of the Respondent's answer, she would have requested leave for additional time to answer because of her current workload.

II. Discussion and Analysis

A default judgment issues herein because the Respondent did not file a timely answer and failed to demonstrate the existence of extraordinary circumstances that would warrant granting approval for a late filing.³

As a preliminary matter, the Respondent does not dispute that it should have filed an answer post-marked no later than June 20, 2016, pursuant to the Board's rules, and that it failed to do so. The Board's rules provide that "parties who fail to file timely answers shall be deemed to have admitted the material facts and legal conclusions alleged in the complaint." 80 Ill. Admin Code 1220.40(b). The cited rule further provides the following: "The failure to answer any allegation shall be deemed an admission of that allegation. Failure to file an answer shall be cause for the termination of the proceeding and the entry of an order of default. Filing of a motion will not stay the time for filing an answer." *Id.* This rule has been strictly construed by the Board and courts, which have consistently held that a respondent's failure to timely file an answer to a complaint results in admissions of all allegations in the complaint and an entry of default judgment. Wood Dale Fire Prot. Dist. v. Ill-Labor Relations Bd., 395 Ill. App. 3d 523 (2nd Dist. 2009), *aff'g* Wood Dale Fire Prot. Dist., 25 PERI ¶ 136 (IL LRB-SP 2008); Metz v. Ill. State Labor Relations Bd., 231 Ill. App. 3d 1079 (5th Dist. 1992), *aff'g* Circuit Clerk of St. Clair Cnty., 6 PERI ¶ 2036 (IL SLRB 1990); Peoria Hous. Auth., 11 PERI ¶ 2033 (IL SLRB 1995); Chicago Hous. Auth., 10 PERI ¶ 3010 (IL LLRB 1994); Cnty. of Jackson (Jackson Cnty. Nursing Home), 9 PERI ¶ 2025 (IL SLRB 1993); City of Springfield, Office of Pub. Utils., 9 PERI ¶ 2024 (IL SLRB 1993).

Section 1220.40(b)(4) of the Rules provides that "[l]eave to file a late answer shall only be granted by the Administrative Law Judge if the late filing is due to extraordinary circumstances, which will include among other things: fraud, act or concealment of the opposing party, or other grounds traditionally relied upon for equitable relief from judgments." 80 Ill. Admin. Code 1220.40(b)(4).

³ The Respondent has not requested a variance from the regulatory filing deadline. However, the same rationale for denying the request for a late filing would similarly apply to denying any request for a variance here.

However, the failure of a party's legal representative to meet a deadline due to inattention or negligence does not constitute an extraordinary circumstance under Section 1220.40(b)(4). First Transit/River Valley Metro, 26 PERI ¶ 38 (IL LRB-SP 2010), aff'd by unpub. order, 27 PERI ¶ 61 (3rd Dist. 2011); City of Markham, 27 PERI ¶ 7 (IL LRB-SP 2011). Except in narrowly defined circumstances, negligence by a party's attorney does not shield it from the consequence of that negligence. Amalgamated Transit Union. Local 241. 29 PERI ¶ 78 (LRB-SP 2012) (citing Wood Dale, 25 PERI ¶ 1136 and Bd. of Educ. Thornton Twp. High Sch. Dist. No. 205 v. Ill. Educ. Labor Relations Bd., 235 Ill. App. 3d 724, 730-31 (4th Dist. 1992)). Here, the Respondent admits that she inadvertently notated the deadline for filing the answer on the wrong date on her calendar, and the Board has upheld default judgments under similar circumstances. See Vill. of Dolton, 17 PERI ¶ 2017 (IL LRB-SP 2001) (answer untimely due to docketing error arising from office personnel changes); City of Markham, 17 PERI ¶ 2036 (IL LRB-SP 2001) (attorney misread due date for answer and response to order to show cause); Ill. Secretary of State, 11 PERI ¶ 2027 (IL SLRB 1995) (failure to mail answer in a timely manner); Vill. of Maywood, 21 PERI ¶ 147 (IL LRB-SP ALJ 2005) (failure to file timely answer due to office turmoil).

Thus, Respondent's motion for leave to file a late answer is denied and a default judgment issues herein.

III. Respondent's Admissions

By failing to file an answer, the Respondent has admitted the following material facts and legal allegations as stated in the Complaint:

1. At all times material, the Respondent is a public employer within the meaning of Section 3(o) of the Act.
2. At all times material, the Respondent is subject to the jurisdiction of the Local Panel of the Board, pursuant to Section 5(b) of the Act.
3. At all times material, Charging Party is a public employee within the meaning of Section 3(n) of the Act, employed by the City of Chicago (Chicago Fire Department) as a Battalion Chief/Paramedic.

4. At all times material, Charging Party also served Respondent as a House Captain for Engine 8, and is also a Safety Technician, Occupational Safety and Health Act (OSHA) Trainer, Construction Health and Safety Technician, and an Illinois State Certified Fire Department Safety Officer.
5. At all times material, Chicago Firefighters Union Local No.2 (Union) is the exclusive representative of a bargaining unit comprised of: All full time uniformed members of the Fire Department below the ranks of Deputy District Chief and Assistant Deputy Chief Paramedics, excluding employees as specified in Appendix A of the CBA which provides that a maximum number of thirty-five (35) employees may be excluded from the bargaining unit as confidential employees.
6. At all times material, the following named individuals, occupying the positions opposite their respective names, are employed by Respondent, are members of the Unit described in paragraph 4, and are public employees within the meaning of Section 3(n) of the Act:

Patrick ClearyBattalion Chief

James Jablonowski.....Battalion Chief

StrohmayrBattalion Chief

Howard.....Lieutenant

Smith.....Firefighter

7. At all times material, Cleary also served as Vice President of the Union and Chairman of the Joint Occupational Safety and Health Committee.
8. At all times material, the following named individuals occupy the positions opposite their respective names and are agents of Respondent authorized to act on its behalf:

Michael CallahanDeputy Fire Commissioner

Janice Hogan.....Deputy Chief of Employee Relations

Donald Hroma.....District Chief of Training

KrasneckDeputy District Chief

Mark NielsenAssistant Deputy Fire Commissioner

Timothy Sampey1st District Fire Chief

BrodersonDeputy District Chief

SoludczykDeputy District Chief

Nicolas RanucciInvestigator - Internal Affairs Division

PalluchCaptain

9. On October 30, 2014, the Union filed a charge with the Board in Case No. L-CA-15-028, alleging the Fire Department retaliated against Cleary for filing an OSHA complaint with the Illinois Department of Labor (IDOL) on or about February 10, 2014.
10. Charging Party advised Cleary regarding the OSHA complaint referenced in paragraph 9, in his capacity as Safety Technician, OSHA Trainer, Construction Health and Safety Technician, and Safety Officer.
11. The OSHA complaint filed by Cleary and referenced in paragraphs 9 and 10, alleged that an unsafe level of motor exhaust fumes were being emitted by Fire Department vehicles that are allowed to run while housed inside Fire Department fire stations.
12. Charging Party's role in advising Cleary on his filing of an OSHA complaint is protected, concerted activity under the Act, taken for mutual aid and protection of Unit employees.
13. On or about March 3, 2014, at a Joint Occupational Safety and Health Committee meeting, Callahan made a statement to Cleary that "it sounds like you have been talking to Conroy" in which Cleary stated "Yes I have."
14. The topic at the March 3, 2014, Joint Occupational Safety and Health Committee meeting referenced in paragraph 13 was Plymovent systems, which are used to capture and remove vehicle exhaust from buildings in situations where vehicles are running their engines indoors, such as in fire stations.

15. Following the filing of the OSHA complaint referenced in paragraphs 9 and 10, various agents of Respondent began to retaliate and harass Charging Party, including issuing Charging Party five separate Investigative Reviews (IR) IRs# 14-0217, 14-0218, 14-0244, 14-0245 and 14-0246, all issued on or about March 8, 2014, for various alleged infractions.
16. The IR's referenced in paragraph 15, led to Charging Party being disciplined with an oral warning, written warning, written reprimand, 8-hour suspension, and one day suspension.
17. Following the filing of the OSHA complaint referenced in paragraphs 9 and 10, various agents of Respondent, including Deputy Chief Hogan, District Chief Hroma and Deputy District Chief Krasneck, subjected Charging Party to verbal harassment, verbal altercations and/or increased scrutiny in the workplace, which ultimately caused Charging Party to have a stress related medical episode for which he had to be taken to the hospital.
18. On or about August 20, 2014, Charging Party called Krasneck to inform him that there were metal shavings in Unit member's masks and gear as a result of subcontractors working in Engine 8's basement cutting galvanized piping, and Charging Party requested that the masks be checked-out at Air-Mask and the gear cleaned.
19. Krasneck responded to Charging Party's request as referenced in paragraph 18, by verbally attacking Charging Party and stating "who is the F---- Captain over there not doing his job," which placed the blame on Charging Party or other members of Engine 8 instead of the subcontractors.
20. On or about October 28, 2014, Charging Party sent an email to Assistant Deputy Fire Commissioner Nielsen regarding inadequate protection of Unit members (company level and Haz-Mat units) to the Ebola Virus or any blood-borne pathogens.
21. Respondent replied to Charging Party's email referenced in paragraph 20, stating that the suits being used are adequate.
22. On or about May 5, 2015, Charging Party made an informal complaint to Chief Sampey regarding harassing behavior from Battalion Chief Jablonowski, stemming

- from Charging Party's refusal on or about April 8, 2015, to tell him which co-worker had played a phone prank on Jablonowski.
23. Following Charging Party's refusal to reveal the co-worker that had phone pranked Jablonowski as referenced in paragraph 22, Jablonowski proceeded to make a string of complaints to Sampey regarding various issues he had with Charging Party in an attempt to get him in trouble.
 24. In or about the beginning of July 2015, Charging Party notified Cleary that 30 minute air bottles at Engine 8's quarters, amongst other facilities, were lacking hydrostatic testing for the past 14 years and Cleary proceeded to file an OSHA complaint with IDOL regarding the issue.
 25. On or about July 27, 2015, Charging Party informed Cleary about a safety issue involving a missing midrail (guardrail) in the firehouse in which he was quartered.
 26. In his capacity as the House Captain of Engine 8, Charging Party had also previously informed Hroma about the missing guardrail, referenced in paragraph 25.
 27. An anonymous OSHA complaint was filed with IDOL regarding the missing guardrail.
 28. During a meeting held on or about August 3, 2015, a Fire Department Battalion Chief brought up firehouse repair issues that had not been taken care of at Engine 8's quarters.
 29. During the meeting referenced in paragraph 28, Sampey responded to the Battalion Chief by stating that he takes care of any safety issues, and that they receive priority.
 30. During the meeting referenced in paragraphs 28 and 29, Charging Party questioned Sampey's response asserting that there were repairs which had been outstanding for two years including missing toeboards and a guardrail on the hose tower.
 31. During the meeting referenced in paragraphs 28, 29 and 30, Charging Party also mentioned that school children often come in large groups on the apparatus floor and that the safety issues make it unsafe for Unit members and visitors.
 32. On or about August 5, 2015, the IDOL came to Engine 8's quarters, to investigate the OSHA complaint referenced in paragraph 27.

33. On or about August 6, 2015, Charging Party was called into Sampey's office and questioned about a journal entry he made in the company journal regarding his relief at Stroger Hospital on the morning of August 4, 2015.
34. During the interview referenced in paragraph 33, Sampey accused Charging Party of entering false information in his company journal about his relief the morning of August 4, 2015, and issued him IR# 15-0716, which Sampey had already prepared and printed before questioning Charging Party.
35. Charging Party had written in his company journal "relieved of McNulty watch at Stroger Hospital" for the morning of August 4, 2015.
36. With permission from Sampey, Charging Party had actually been relieved of his watch at quarters, not at Stroger Hospital, on the morning of August 4, 2015.
37. On or about the morning of August 3, 2015, another Battalion Chief had been relieved at quarters, but Respondent did not issue an IR to this other Battalion Chief.
38. On or about the morning of August 4, 2015, after Charging Party had returned to quarters, Jablonowski (his relief) remained and sat in quarters for at least 40 minutes before proceeding to Stroger Hospital.
39. Respondent never issued Jablonowski an IR for remaining in quarters for 40 minutes after Charging Party had already arrived, as referenced in paragraph 38.
40. Respondent engaged in disparate treatment, as set forth in paragraphs 33-39, when it treated Charging Party more harshly than other employees engaging in the same or similar conduct, because Charging Party questioned Sampey regarding safety related issues and initiated an OSHA complaint that led to an inspection by the IDOL.
41. On or about August 6, 2015, Charging Party made an addendum to his previous statement in the company journal to clarify that he was relieved of McNulty watch at company quarters, adding an asterisk instructing readers to see his next day's journal page.
42. The addendum referenced in paragraph 41 read: "To clarify:...I was on McNulty watch at Stroger Hospital relieved at B-2 Hdqts...permission from Chief Sampey. This was clearly stated to Chief Sampey during a discussion at DISTRICT! There was no attempt to mislead or lie."

43. On or about August 10, 2015, Jablonowski was upset that Charging Party did not change the battery in his radio for him and physically and verbally assaulted Charging Party.
44. Following the incident referenced in paragraph 43, Charging Party filed physical violence charges with the Fire Department.
45. Charging Party reported the incident referenced in paragraph 43 to Deputy District Chief Soludczyk, however Soludczyk's journal entry does not reflect what Charging Party told him about the incident.
46. Following the incident referenced in paragraph 43, Charging Party was called down to the Fire Department's Internal Affairs Division (IAD) where he submitted photos he had taken of himself following the incident as well as text messages Jablonowski had sent him.
47. On or about August 10, 2015, following the incident referenced in paragraph 43, Charging Party filed a charge against Jablonowski for assault/battery with the Chicago Police Department.
48. Following the incident referenced in paragraph 43 and the charge referenced in paragraph 44, Respondent failed to issue an IR or to discipline Jablonowski.
49. Following the incident referenced in paragraph 43 and the charge referenced in paragraph 44, Respondent assigned Charging Party away from Battalion 2.
50. Following the incident referenced in paragraph 43 and the charge referenced in paragraph 44, Respondent failed to follow its standard process for addressing a physical violence charge.
51. Firefighter Smith, who had witnessed the incident referenced in paragraph 43, later called Charging Party by telephone to discuss the incident, and Charging Party advised Smith to tell the truth.
52. On or about August 15, 2015, Sampey issued Charging Party IR# 15-0735 for allegedly modifying a previous false entry and entering a false statement regarding the relief procedure, in regards to Charging Party's company journal entry and addendum referenced in paragraphs 41 and 42.
53. On or about August 27, 2015, Smith asked Charging Party to speak to him in private in his buggy at Engine 29's quarters, and Charging Party agreed to do so.

54. During the conversation referenced in paragraph 53, Smith informed Charging Party that he had completed a "Form 2" in Charging Party's favor regarding the physical violence incident referenced in paragraph 44, and that he wanted Charging Party's advice.
55. During the conversation referenced in paragraphs 53 and 54, Smith further informed Charging Party that one of Respondent's agents had instructed Smith to tear up the "Form 2" he had written.
56. During the conversation referenced in paragraph 53, 54 and 55, Charging Party again advised Smith to tell the truth about the situation.
57. On or about August 30, 2015, Charging Party was informed by Captain Palluch at Engine 8's quarters, that Smith had said he was being harassed by Charging Party.
58. During the discussion referenced in paragraph 57, Charging Party informed Palluch that the last time he saw Smith, Smith had approached Charging Party and initiated a private conversation because Smith sought Charging Party's advice.
59. On or about September 2, 2015, Charging Party sent an email to Investigator Ranucci in the IAD inquiring about the status of his physical violence charge referenced in paragraph 44, asking if Ranucci needed anything else from him, and also asking Ranucci if there was somewhere Charging Party could go for help outside the Fire Department.
60. Ranucci never responded to the email referenced in paragraph 59.
61. On or about September 4, 2015, Charging Party filed an OSHA "Whistleblower" lawsuit against the Respondent.
62. On or about September 10, 2015, Charging Party filed a harassment and retaliation complaint against the Fire Department with the City of Chicago's Inspector General's Office (OIG).
63. On or about September 17, 2015, Charging Party sent an email to Ranucci in the IAD about his meeting with Smith referenced in paragraphs 53, 54 and 55.
64. Ranucci never responded to the email referenced in paragraph 63.
65. In or about August and September 2015 various Unit members assigned to Engine 8 approached Charging Party about a Lieutenant/Paramedic, claiming he was not

- bringing certain required gear (hi-rise bag) when responding to alarms at hi-rise buildings.
66. On or about September 14, 2015, Charging Party questioned the Lieutenant/Paramedic referenced in paragraph 65, in the presence of Lieutenant Howard, about the Lieutenant/Paramedic's medical condition and his not carrying the hi-rise bag into hi-rise alarms.
 67. On or about September 17, 2015, Charging Party called the Fire Department's Medical Section (which monitors the health and fitness of all uniformed members of the Fire Department) for guidance on how to address the issue of the Lieutenant/Paramedic referenced in paragraphs 65 and 66, who he believed may be unfit for duty due to a medical condition.
 68. Per the insistence of the Medical Section employee Charging Party spoke to in the conversation referenced in paragraph 67, Charging Party provided the Lieutenant/Paramedic's name that was the subject of the call.
 69. During the telephone call referenced in paragraphs 67 and 68, Charging Party told the individual from Medical Section that he was just looking for guidance or direction in dealing with the matter referenced in paragraphs 65, 66, 67 and 68 because he had never faced this type of situation before.
 70. As a Battalion Chief it is part of the Charging Party's duties to ensure that a member is not a danger to himself or to others under his command.
 71. On or about September 17, 2015, after two weeks of Respondent rotating Charging Party and Jablonowski in-and-out of Battalion 2 (where they were both assigned at the time of the incident referenced in paragraph 43), Charging Party realized that Respondent no longer scheduled Charging Party for rotating in-and-out of his Battalion, but Jablonowski remained in the Battalion.
 72. In or about September 2015, Charging Party sent an email to Nielsen inquiring why he was not on schedule for his Battalion as referenced in paragraph 71.
 73. In or about September of 2015, Nielsen responded to Charging Party via email informing Charging Party that he had been detailed away from his assignment pending an investigation of a harassment claim lodged against him by several members of Battalion 2.

74. On or about September 29, 2015, Charging Party filed an OSHA complaint with IDOL regarding a 50-foot ladder at Engine 93's quarters, which lacked a ladder cage, well or affixed ladder safety device.
75. On or about October 2, 2015, Respondent issued Charging Party IR# 15-0868 for calling Medical Section regarding a Lieutenant/Paramedic as referenced in paragraphs 67, 68 and 69.
76. On or about October 12, 2015, Charging Party filed a second complaint with the OIG regarding the Fire Department's handling of the physical violence complaint he had reported as referenced in paragraph 44, alleging further retaliation and attacks for having filed the physical violence complaint.
77. On or about October 23, 2015, Respondent issued Charging Party IR# 15-0952, which alleges that Charging Party had harassed Smith.
78. On or about November 19, 2015, Respondent attempted to issue a 3-day suspension to Charging Party for IRs # 15-0716 and 15-0735 (modifying a previous false entry and entering a false statement regarding the relief procedure), however the paperwork was not in order and the Respondent's issuing of the suspension was ultimately delayed because Charging Party suffered a stress induced medical episode requiring his admission to hospital.
79. On or about November 30, 2015, Charging Party's doctor wrote a statement describing various escalating stress related symptoms that he had been treating Charging Party for over the past 2-3 years, stemming from harassment he had been experiencing at work.
80. On or about December 4, 2015, Respondent issued Charging Party an official 3-day suspension notice for the IRs referenced in paragraphs 34, 52 and 78.
81. On or about December 28, 2015, the City of Chicago received five (5) citations from IDOL stemming from OSHA complaints initiated or filed by Charging Party as referenced in paragraphs 24, 27 and 74.
82. Charging Party's initiating or filing OSHA complaints and raising safety concerns at the workplace, as referenced in paragraph 10, 12, 20, 24, 26, 27, 30, 31 and 74, is protected and concerted activity under the Act, taken for the mutual aid and protection of Unit members.

83. Respondent took the actions referenced in paragraphs 34, 40, 49, 50, 52, 55, 60, 64, 71, 75, 77 and 80, in retaliation for Charging Party engaging in protected, concerted activity, as referenced in paragraphs 10, 20, 24, 26, 27, 30, 31 and 74 and 82.

84. Respondent took the action referenced in paragraph 77 and 80 in retaliation for Charging Party filing this unfair labor practice charge with the Board.

85. By its acts and conduct as referenced in paragraphs 34, 40, 49, 50, 52, 55, 60, 64, 71, 75, 77, 80 and 83, Respondent has interfered with, restrained or coerced employees in the exercise of rights guaranteed by the Act, in violation of Section 10(a)(1) of the Act.

86. By its acts and conduct as referenced in paragraphs 34, 40, 49, 50, 52, 55, 60, 64, 71, 75, 77, 80 and 83, Respondent has discriminated against a public employee in order to discourage membership in or support for the Union, in violation of Sections 10(a)(2) and (1) of the Act.

87. By its act and conduct as referenced in paragraphs 77, 80 and 84 Respondent has discriminated against a public employee because he filed a charge with the Board, in violation of Sections 10(a)(3) and (1) of the Act.

IV. Conclusions of Law

1. The Respondent violated Section 10(a)(1) of the Act by interfering, restraining, or coercing Conroy in the exercise of rights guaranteed under the Act.
2. The Respondent violated Sections 10(a)(2) and (1) of the Act by discriminating against Conroy for engaging initiating or filing OSHA complaints and raising safety concerns at the workplace.
3. The Respondent violated Sections 10(a)(3) and (1) of the Act by discriminating against Conroy for filing a charge with the Board.

V. Recommended Order

IT IS HEREBY ORDERED that the Respondent, City of Chicago (Fire Department), its officers and agents shall:

- 1) Cease and desist from:
 - a) Discriminating against Michael J. Conroy for initiating or filing OSHA complaints and raising safety concerns at the workplace.

- b) Discriminating against Michael J. Conroy for filing charges with the Board.
 - a) In any like or related manner interfering with, restraining or coercing its employees in the exercise of the rights guaranteed them in the Act.
- 2) Take the following affirmative action necessary to effectuate the policies of the Act:
- a) Rescind the 3-day suspension issued to Michael J. Conroy as a result of IR #s 15-0716 and 15-0735.
 - b) Expunge from Respondent's files any reference to the 3-day suspension issued to Conroy as a result of IR #s 15-0716 and 15-0735.
 - c) Rescind IR #s 15-0716, 15-0735, 15-0868, and 15-0952.
 - d) Expunge from Respondent's files any reference to IR #s 15-0716, 15-0735, 15-0868, and 15-0952.
 - e) Reassign Conroy to Battalion 2 and continue rotating Michael J. Conroy and James Jablonowski in and out of Battalion 2.
 - f) Make Michael J. Conroy whole for all losses incurred as a result of the 3-day suspension.
 - g) Follow its standard process for addressing a physical violence charge.
 - h) Preserve and upon request, make available to the Board or its agents all payroll and other records required to calculate the amount of back pay as set forth in this Decision.
 - i) Post, for 60 consecutive days, at all places where notices to employees are normally posted, signed copies of the attached notice. The Respondent shall take reasonable efforts to ensure that the notices are not altered, defaced or covered by any other material.
 - j) Notify the Board in writing, within 20 days of the date of this decision of the steps Respondent has taken to comply herewith.

VI. 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 General Counsel Kathryn Zeledon Nelson 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 of 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 Chicago, Illinois this 11th day of July, 2016

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL**

/s/ Anna Hamburg-Gal

**Anna Hamburg-Gal
Administrative Law Judge**

NOTICE TO EMPLOYEES

FROM THE ILLINOIS LABOR RELATIONS BOARD

Case No. L-CA-16-020

The Illinois Labor Relations Board, Local Panel, has found that the City of Chicago (Fire Department) violated the Illinois Public Labor Relations Act and has ordered us to post this Notice. We hereby notify you that the Illinois Public Labor Relations Act (Act) gives you, as an employee, these rights:

- To engage in self-organization
- To form, join or assist unions
- To bargain collectively through a representative of your own choosing
- To act together with other employees to bargain collectively or for other mutual aid and protection
- To refrain from these activities

Accordingly, we assure you that:

WE WILL cease and desist from interfering with, restraining, or coercing employees in the exercise of rights guaranteed them in the Act.

WE WILL cease and desist from discriminating against Michael J. Conroy for initiating or filing OSHA complaints and raising safety concerns at the workplace.

WE WILL cease and desist from discriminating against Michael J. Conroy for filing charges with the Board.

WE WILL rescind the 3-day suspension issued to Michael J. Conroy as a result of IR #s 15-0716 and 15-0735.

WE WILL expunge from our files any reference to the 3-day suspension issued to Conroy as a result of IR #s 15-0716 and 15-0735.

WE WILL rescind IR #s 15-0716, 15-0735, 15-0868, and 15-0952.

WE WILL expunge from our files any reference to IR #s 15-0716, 15-0735, 15-0868, and 15-0952.

WE WILL reassign Michael J. Conroy to Battalion 2 and continue rotating Conroy and James Jablonowski in and out of Battalion 2.

WE WILL make Michael J. Conroy whole for all losses incurred as a result of the 3-day suspension.

WE WILL follow our standard process for addressing a physical violence charge.

DATE _____

City of Chicago (Fire Department)
(Employer)

ILLINOIS LABOR RELATIONS BOARD

One Natural Resources Way, First Floor
Springfield, Illinois 62702
(217) 785-3155

160 N. LaSalle Street, Suite S-400
Chicago, Illinois 60601-3103
(312) 793-6400

**THIS IS AN OFFICIAL GOVERNMENT NOTICE
AND MUST NOT BE DEFACED.**
