

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

Metropolitan Alliance of Police,)	
Bolingbrook Chapter #3,)	
)	
Charging Party,)	
)	
and)	Case No. S-CA-15-136
)	
Village of Bolingbrook,)	
)	
Respondent.)	

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

On April 20, 2015, Metropolitan Alliance of Police, Bolingbrook Chapter #3 (Charging Party) filed an unfair labor practice charge alleging the Village of Bolingbrook (Respondent) violated Section 10(a) of the Illinois Public Labor Relations Act (Act), 5 ILCS 315/1 *et seq.* The Union alleged the Respondent violated the Act when it denied two employee members their requested shift assignments in retaliation for advancing a grievance to arbitration. On December 18, 2015, the Executive Director dismissed the Section 10(a)(3) portion of the charge but deferred to arbitration the remaining allegations.

On November 23, 2016, a Board agent sent emails to both parties requesting an update on the status of the arbitration process and advising that she would recommend that the Executive Director dismiss the charge if no response was received by December 14, 2016. When neither party responded to the November 23 email, the Executive Director issued a dismissal order on January 6, 2017. Charging Party timely appealed the dismissal on January 17, 2017. The Respondent did not file a response.

In its appeal, Charging Party urges the Board to consider the totality of the circumstances and reverse the dismissal, asserting that its failure to respond to the Board agent's November 23 email was due to confusion resulting from another pending unfair labor practice charge assigned a sequential case number, Case No. S-CA-15-137, involving the same parties, which was also held in abeyance until the completion of an arbitration. Charging Party claims that both parties

had addressed the two cases together and pointed to the Board's initial Affidavit of Service dated April 24, 2015, that listed both case numbers in the caption. In addition, Charging Party notes that six days before the November 23 email, both parties received a similar email on November 17, 2016, from the same Board agent requesting the status on Case No. S-CA-15-137. The Respondent responded that an interest arbitration was scheduled for November 30, 2016.

Charging Party claims these circumstances demonstrate that the intertwined nature of the two cases along with the fact that the two cases were proceeding concurrently caused confusion. Charging Party also notes that neither party responded to the November 23, 2016, and claims because it was sent on the day before the Thanksgiving holiday and shortly after the November 17, 2016, status request in S-CA-15-137, it appeared that the Respondent's response to the November 17 email had in effect served to respond to the November 23 email as well. Charging Party further notes that the arbitration process in connection with the instant case has started with selection of an arbitration panel and is currently pending.

The Charging Party's appeal and arguments have merit. We find that the circumstances in this case militate in favor of reversing the dismissal. The November 23 email was sent the day before the Thanksgiving holiday and shortly after the November 17 status request in Case No. S-CA-15-0137 was sent by the Board agent and responded to by the Respondent. We are persuaded that the failure to respond to the November 23, 2016, status request was due to confusion created by the circumstances of processing two cases with sequential case numbers involving the same parties in close proximity of time, rather than the negligence of the parties or want of prosecution on the part of the Charging Party. We also find noteworthy that the Respondent was the party that responded to the November 17, 2016, status request in Case No. S-CA-15-137 and did not file a response to Charging Party's appeal in the instant case. Upholding the dismissal based on these circumstances rather than on any willful or negligent conduct of the Charging Party would lead to a harsh result in a case initially determined to warrant deferral to arbitration.

After reviewing the record and Charging Party's appeal, we vacate the dismissal and remand the case to the Executive Director to reinstate the deferral to arbitration.

BY THE STATE PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

/s/ John J. Hartnett
John J. Hartnett, Chairman

/s/ Michael G. Coli
Michael G. Coli, Member

/s/ Kathryn Zeledon Nelson
Kathryn Zeledon Nelson, Member

/s/ John R. Samolis
John R. Samolis, Member

/s/ Keith A. Snyder
Keith A. Snyder, Member

Decision made at the State Panel's public meeting held in Chicago on March 7, 2017; written decision approved at the State Panel's public meeting held in Springfield, Illinois, on April 11, 2017, and issued on this date.

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

Metropolitan Alliance of Police, Bolingbrook
Chapter #3,

Charging Party

and

Village of Bolingbrook,

Respondent

Case No. S-CA-15-136

DISMISSAL

On April 20, 2015, Metropolitan Alliance of Police, Bolingbrook Chapter #3 (Charging Party) filed an unfair labor practice charge with the State Panel of the Illinois Labor Relations Board (Board), in Case No. S-CA-15-136, alleging that the Village of Bolingbrook (Employer or Respondent) violated Section 10(a) of the Illinois Public Labor Relations Act (Act), 5 ILCS 315 (2014), *as amended*. After an investigation pursuant to Section 11 of the Act, on December 18, 2015, the Executive Director at the time ordered this matter deferred to arbitration, and that within 15 days after the completion of the arbitration process Charging Party may request that the Board reopen the case for the purpose of resolving any substantial issues.

On November 23, 2016, a Board agent sent an email to Charging Party and Respondent, seeking an update regarding the status of the underlying arbitration, noting therein that unless she received a response by December 14, 2016, she would recommend that the Board's Executive Director dismiss this charge. To date, neither party has responded.

Accordingly, this charge is hereby dismissed. The Charging Party may appeal this dismissal to the Board any time within 10 calendar days of service hereof. Such appeal must be in writing, contain the case caption and numbers and must be addressed to the General Counsel of the Illinois Labor Relations Board, 160 North LaSalle Street, Suite S-400, Chicago, Illinois, 60601-3103 or filed electronically at ILRB.Filing@Illinois.gov in accordance with Section 1200.5 of the Board's Rules and Regulations, 80 Ill. Admin. Code §§1200-1300. The appeal must contain detailed reasons in support thereof, and the Charging Party must provide it to all other persons or organizations involved in this case at the same time it is served on the Board. Please note that the Board's Rules and Regulations do not allow electronic service of the other persons or organizations involved in this case. The appeal sent to the Board must contain a statement listing the other parties to the case and verifying that the appeal has been provided to them. The appeal will not be considered without this statement. If no appeal is received within the time specified, this dismissal will be final.

Issued at Springfield, Illinois, this 6th day of January, 2017.

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



**Kimberly Stevens
Executive Director**