

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

Shaquea K. Baker,)	
)	
Charging Party)	
)	
and)	Case No. S-CA-16-128
)	
Cook County Circuit Clerk,)	
)	
Respondent)	

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

On January 6, 2017, Executive Director Kimberly Stevens dismissed a charge filed by Shaquea K. Baker (Charging Party) on May 19, 2016. The charge alleged that the Cook County Circuit Clerk (Respondent or Employer), engaged in unfair labor practices within the meaning of Section 10(a) of the Illinois Public Labor Relations Act (Act), 5 ILCS 315 (2014), as amended when it terminated the Charging Party’s employment as an Administrative Assistant. The Charging Party claims that the Respondent treated her differently from other employees because it terminated her for engaging in a physical altercation with a coworker while it issued other employees lesser discipline for similar misconduct.¹

¹ In relevant part, Sections 10(a) of the Act provides as follows:

Sec. 10. Unfair labor practices.

a) for an employer or its agents:

- (1) to interfere with, restrain or coerce public employees in the exercise of the rights guaranteed in this Act

- (2) to discriminate in regard to hire or tenure of employment or any term or any term or condition of employment in order to encourage or discourage membership in or other support for any labor organization....

The Executive Director dismissed the charge on the grounds that the Charging Party failed to present any evidence that the Respondent's alleged disparate treatment of the Charging Party stemmed from her union or protected activity.

On January 12, 2017, the Charging Party filed an appeal of the Executive Director's dismissal. The Charging Party asserts that she should be given an opportunity to prove at hearing that the Respondent discharged her because of her union activity and membership in the International Brotherhood of Teamsters, Local 700. The certificate of service that the Charging Party filed with her appeal did not indicate that she served the Respondent. It showed that she served only the Board.

We affirm the dismissal on the grounds that the appeal fails to comply with the Board's rules. Parties must serve their appeal of an Executive Director's Order on all other parties in accordance with Section 1200.20 of the Board's rules. 80 Ill. Adm. Code 1200.135(a)(1). Section 1200.20 of the Board's rules provides that, "[t]he document shall not be considered properly served unless accompanied by proof of service." 80 Ill. Adm. Code 1200.20. Here, the Charging Party's certificate of service shows that the Charging Party served only the Board with the appeal and not the Respondent. Teamsters, Local 700 (Kondilis), 33 PERI ¶ 17 (IL LRB-LP 2016) (striking supplemental appeal where it was untimely and also not accompanied by proof of service on respondent); Amalgamated Transit Union, Local 308 (Cruse), 32 PERI ¶ 180 (Board declined to consider appeal where charging party failed to demonstrate she served it in accordance with the Board's rules). Accordingly, we strike the appeal and affirm the Executive Director's dismissal on procedural grounds.

Even if we were to consider the substance of the appeal, we would affirm the dismissal on the merits. The Charging Party identified no flaw in the Executive Director's analysis or her

findings of fact. The Charging Party merely contends that she is entitled to a hearing despite failing to provide the Board agent with any evidence of unlawful motive during the investigation of the charge. Accepting this argument would render pointless the investigation process by allowing a charging party to proceed to hearing without providing any evidence that raises issues for hearing in the first instance. Aside from failing to provide evidence of unlawful motive, the Charging Party did not even claim that the Respondent terminated her because of her participation in the union until filing this appeal.

In sum, we strike the appeal because the certificate of service did not show that the Charging Party served the Respondent. Even if we were to consider the appeal, we would affirm the dismissal on the merits for the reasons set forth above.

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 in Chicago, Illinois on May 16, 2017, written decision approved at the State Panel's public meeting in Springfield, Illinois on June 13, 2017, and issued on this date.

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

Shaquea K. Baker,

Charging Party

and

Cook County Circuit Clerk,

Respondent

Case No. S-CA-16-128

DISMISSAL

On May 19, 2016, Shaquea K. Baker (Charging Party or Baker) filed a charge in Case No. S-CA-16-128 with the State Panel of the Illinois Labor Relations Board (Board), in which she alleged that the Respondent, Cook County Circuit Clerk (Respondent, Circuit Clerk, or Employer) engaged in unfair labor practices within the meaning of the Illinois Public Labor Relations Act (Act), 5 ILCS 315 (2014), *as amended*. After an investigation conducted in accordance with Section 11 of the Act, I determined that the charge fails to raise an issue of law or fact sufficient to warrant a hearing. I hereby dismiss this charge for the following reasons.

I. INVESTIGATION

Respondent is a public employer within the meaning of Section 3(o) of the Act. International Brotherhood of Teamsters, Local 700 is a labor organization within the meaning of Section 3(i) of the act and the exclusive representative of certain of Respondent's employees in the job title or classification of Administrative Assistant I. At all times material, Charging Party has been a public employee within the meaning of Section 3(n) of the Act and has been employed by the Cook County Circuit Clerk as an Administrative Assistant. As such, she was a

member of a bargaining unit represented by Teamsters, Local 700 (Union). The Respondent and the Union are parties to a collective bargaining agreement for the Unit that includes a grievance procedure culminating in final and binding arbitration.

On or about October 9, 2014, Baker was involved in an altercation with her coworker, Sandrena Bracy (Bracy). Baker alleges that towards the end of the day Bracy bumped into her while she was at the copy machine. Then, as Baker was leaving the office, she saw Bracy getting on the elevator. Bracy held open the elevator doors and taunted and attempted to provoke Baker as she walked down the hallway to the elevator. As Baker got close to the elevator, Bracy raised her right arm and Baker swung in defense. Bracy stumbled backward into the elevator and Baker's arm hit the side of it. Baker alleges this incident occurred through no fault of her own.

Bracy's version of the altercation differs from Baker's. Bracy contends that at approximately 4:35 p.m. on October 9, 2014 she came into contact with Baker who was at the copier blocking her exit. As Bracy attempted to maneuver around Baker, they ended up oscillating back and forth to avoid one another, and Baker made accusations that Bracy failed to say excuse me. Bracy responded "I saw no reason to say excuse me." Bracy then left and walked towards the elevator alleging she could still hear Baker making defamatory marks as she waited for the elevator. As Bracy stepped into the elevator, Baker reached for her and slammed her head into the elevator doors. Bracy was then taken to the emergency room and was treated for head trauma, neck injuries, and back injuries.

Baker was placed on administrative leave while the Employer conducted an investigation. The Employer issued a report on January 5, 2015, finding that Bracy and Baker engaged in a verbal altercation, and Baker struck Bracy. On February 13, 2015, Baker received a report that

the allegations of misconduct were sustained, and she was terminated as of the close of business that day. On or about November 20, 2015, the Personnel Review Board upheld the discharge. On November 23, 2015, Teamsters, Local 700 refused to submit Baker's discharge to arbitration.

Charging Party claims that she was treated disparately by the Employer and submitted as evidence the names of five employees that were involved in similar incidents of employee misconduct in which the Employer did not issue discipline resulting in termination.

II. DISCUSSION AND ANALYSIS

Section 10(a)(1) of the Act provides that it shall be an unfair labor practice for an employer or its agents, to interfere with, restrain or coerce public employees in the exercise of the rights guaranteed in this Act. To determine whether the Employer's actions in this case violate the Act, the analysis tracks that used in cases arising under Section 10(a)(2), concerning the exercise of the right to engage in union activity. Kirk and Chicago Housing Authority, 6 PERI ¶ 3013 (IL LLRB 1990). This means that the Charging Party must prove that (1) she engaged in union or other protected concerted activity; (2) the employer was aware of that activity; and (3) the employer took adverse action against her for engaging in that activity in order to encourage or discourage union membership or support. New Lenox Fire Protection District, 24 PERI ¶ 78 (IL LRB-SP 2008) (citing City of Burbank v. Illinois State Labor Relations Board, 128 Ill. 2d 335 (1989)). There must be a causal connection between the employer's adverse employment action and the protected concerted activity. See Chicago Park District, 9 PERI ¶ 3016 (IL LLRB 1993).

Discriminatory motivation may be established through direct evidence or based on circumstantial factors, including expressions of hostility towards protected activity together with knowledge of the employee's union activity; proximity in time between the employee's union

activity and the employer's action; disparate treatment or a pattern of conduct which targets union supporters for adverse employment action; or shifting or inconsistent explanations regarding the adverse employment action. City of Burbank, at 345-346; County of Menard v. Ill. State Labor Relations Bd., 202 Ill. App.3d 878, 890-891 (4th Dist. 1990).

In this charge, Charging Party did not provide evidence that the alleged disparate treatment stemmed from her union or protected activity and has therefore failed to demonstrate the necessary causal link that union or protected activity was the reason she was treated more harshly than other similarly situated employees. Therefore, even if Baker's allegations were true, the Employer's actions were not motivated by an activity protected under this Act. Absent such a showing, this charge fails to raise an issue for hearing

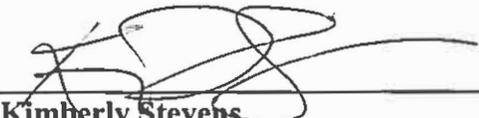
III. ORDER

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
STATE PANEL**



Kimberly Stevens
Executive Director