

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

Sharon White,)	
)	
Charging Party)	
)	
and)	Case No. S-CA-16-137
)	
State of Illinois, Department of Central)	
Management Services, (Human Services –)	
Madden Mental Health Center),)	
)	
Respondent)	

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

On January 20, 2017, Executive Director Kimberly Stevens dismissed a charge filed by Sharon White (Charging Party) on June 9, 2016. The charge alleged that the State of Illinois, Department of Central Management Services (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 removed some of the Charging Party’s job duties after she suffered injury on the job, working as an Executive II at the Madden Mental Health Center.

The Executive Director dismissed the charge on the grounds that the Charging Party failed to provide evidence that she had engaged in protected activity and also failed to respond to the investigator’s request for additional information in support of the charge. Specifically, the investigator sent the Charging Party an email request for additional information on October 20, 2016, but the Charging Party never responded.

On January 30, 2017, the Charging Party filed an appeal of the Executive Director’s dismissal. The Charging Party asserts that she responded to the investigator’s request for

information with a letter, dated June 23, 2016, and a packet of information. The pro se Charging Party did not include a certificate of service with her exceptions.

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 appeal was not properly served because the Charging Party did not include a certificate of service with her exceptions. Accordingly, we strike the appeal and affirm the Executive Director's dismissal on procedural grounds. 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).

Even if we were to consider the substance of the appeal, we would affirm the dismissal on the merits. The materials in the investigatory file are devoid of evidence that the Charging Party engaged in protected concerted activity. In addition, the Charging Party did not in fact respond to the investigator's October 20, 2016 request for information.¹ The documentation that the Charging Party references on appeal is material that she provided the Board prior to the Board agent's request for additional information. Accordingly, the Executive Director correctly dismissed the charge on the grounds that the Charging Party did not initially provide evidence that raised issues of fact or

¹ In her appeal, Charging Party alleged that the investigator's request for information was emailed to an incorrect email address. The investigator's emailed request, however, was sent to the email address used by the Charging party on emails that the Charging Party submitted to the Board in support of her charge.

law for hearing and did not reply to the investigator's request for additional information on the relevant issues.

In sum, we strike the appeal because the Charging Party did not include a certificate of service with her appeal. 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**

Sharon White,

Charging Party

and

State of Illinois, Department of Central
Management Services (Human Services—
Madden Mental Health Center),

Respondent

Case No. S-CA-16-137

DISMISSAL

On June 9, 2016, Sharon White (Charging Party) filed an unfair labor practice charge with the State Panel of the Illinois Labor Relations Board (Board), in Case No. S-CA-16-137, alleging that the State of Illinois, Department of Central Management Services (Human Services—Madden Mental Health Center) (Respondent) violated Section 10(a) 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 and hereby issue this dismissal for the reasons stated.

I. INVESTIGATION

At all times material, the Charging Party is a public employee within the meaning of Section 3(n) of the Act. The Respondent is a public employer within the meaning of Section 3(o) of the Act. Charging Party has been employed by the Respondent for 13 years and is currently employed in the position title of Executive II. Charging Party is included in a bargaining unit

(Unit) represented by the American Federation of State, County and Municipal Employees, Council 31 (Union). The Union and the Respondent are parties to a collective bargaining agreement (CBA) which includes a grievance procedure culminating in final and binding arbitration.

Charging Party claims that she was injured on the job on August 31, 2015, and returned to work from medical leave on March 1, 2016. Upon her return, Charging Party was informed by the Respondent that her duties had been taken over by another employee and would remain that way. Charging Party asserts that she experienced a great amount of stress in getting her Worker's Compensation approved and is now being disrespected by and discriminated against by the Respondent, even though her evaluations reflect that she has been a good employee. Charging Party claims that her new job duties are a complete change from her previous duties and that the Respondent did not follow the steps outlined in the CBA concerning a change in job duties.

By email dated October 20, 2016, the Board agent assigned to the case advised Charging Party what constitutes a violation of the Act and requested that Charging Party provide any and all evidence to prove that the Respondent did indeed violate the Act. Charging Party had a deadline to respond by November 2, 2016. To date, Charging Party has not submitted a response.

II. DISCUSSION AND ANALYSIS

Section 1220.40(a)(1) of the Board's Rules and Regulations, 80 Ill. Admin. Code, Sections 1200 through 1240, provides that "[t]he Charging Party shall submit to the Board or its agent all evidence relevant to or in support of the charge." This rule has been interpreted to allow the executive director to dismiss a case where a charging party has not complied with a request for evidence in support of a charge, or has not responded to a request for a written withdrawal. SEIU Local 880 (Kirk, et al.), 12 PERI ¶2006 (IL SLRB 1995), aff'd by unpub.

order, 13 PERI ¶4008 (1996); State of Illinois, Department of Central Management Services (Department of Rehabilitation Services), 12 PERI ¶2005 (IL SLRB 1995), aff'd by unpub. order, 13 PERI ¶4008 (1996).

In the instant case, Charging Party has failed to provide any evidence responsive to the Board agent's inquiry into the matter. The available information lacks any details as to any "concerted activity" in which Charging Party allegedly engaged, and the Charging Party did not provide any supporting documents or information demonstrating that the Respondent violated the Act. Therefore, the charge is not sufficient to raise an issue for hearing. The Charging Party has failed to participate in the Board's investigatory process. As such, the Board is unable to process this charge any further.

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 20th day of January, 2017.

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A handwritten signature in black ink, appearing to read 'Kimberly Stevens', is written over a horizontal line.

**Kimberly Stevens
Executive Director**