

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

Shaquea K. Baker,	)	
	)	
Charging Party	)	
	)	
and	)	Case No. S-CB-16-030
	)	
International Brotherhood of Teamsters,	)	
Local 700,	)	
	)	
Respondent	)	

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

On January 5, 2017, Executive Director Kimberly Stevens dismissed a charge filed by Shaquea K. Baker (Charging Party) on May 17, 2016. The charge alleged that the International Brotherhood of Teamsters, Local 700 (Respondent or Union), engaged in unfair labor practices within the meaning of Section 10(b) of the Illinois Public Labor Relations Act (Act), 5 ILCS 315 (2014), as amended when it refused to arbitrate the Charging Party’s termination grievance, allegedly because the Employer asked the Union not to arbitrate it.<sup>1</sup>

The Executive Director dismissed the charge on the grounds that the Charging Party failed to present any evidence regarding the Union’s motive for allegedly breaching its duty of fair representation. She also noted that the Charging Party failed to present any evidence that the

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<sup>1</sup> In relevant part, Sections 10(b) of the Act provides as follows:

Sec. 10. Unfair labor practices.

(b) It shall be an unfair labor practice for a labor organization or its agents:

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

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iii. that a labor organization or its agents shall commit an unfair labor practice under this paragraph in duty of fair representation cases only by intentional misconduct in representing employees under this Act.

Union and the Employer agreed that the Union would not arbitrate the grievance or that they worked together to the detriment of employees. Finally, the Executive Director observed that the Union treated the grievance of the other employee who was involved in the same altercation that led to Charging Party's discipline in a similar manner, declining to advance it to arbitration.

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 Union failed to arbitrate her grievance because of an unlawful motive and that the Employer and the Union acted in concert to the detriment of employees. 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 suggests that the Executive Director overlooked the unlawful collaboration between the Union and the Employer to work to the detriment of employees, but the Charging Party has offered no evidence of such collaboration. The Charging Party erroneously claims that the Union's refusals to arbitrate other similar grievances support her claim of unlawful collaboration. In fact, Unions have broad discretion in deciding whether to arbitrate grievances, and the Charging Party has offered no evidence that the Employer played any unlawful role in the Union's determination. 5 ILCS 315/6(d); Outerbridge and Chicago Fire Fighters Union, Local 2, 4 PERI ¶ 3024 (IL LLRB 1988); Parmer and Service Employees International Union, Local 1, 3 PERI ¶ 3008 (IL LLRB 1987). Indeed, the Charging Party acknowledges the absence of such evidence and contends that she should receive a hearing so that she can obtain some. That is not the purpose of the hearing process, which serves to resolve issues of fact or law already raised during investigation. 5 ILCS 315/11(a) and 80 Ill. Adm. Code 1220.40 (requiring charging party to show that there are issues of fact or law for hearing).

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

International Brotherhood of Teamsters,  
Local 700,

Respondent

Case No. S-CB-16-030

**DISMISSAL**

On May 17, 2016, Shaquea K. Baker (Charging Party or Baker) filed a charge in Case No. S-CB-16-030 with the State Panel of the Illinois Labor Relations Board (Board), in which she alleged that the Respondent, International Brotherhood of Teamsters, Local 700 (Respondent, Teamsters, or Union) 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 issue this dismissal for the following reasons.

**I. INVESTIGATION**

The Cook County Circuit Clerk (Employer) employed the Charging Party under the title of Administrative Assistant I. As such, she was a member of a bargaining unit represented by the Teamsters, Local 700. The Respondent and the Employer 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.

The Union then submitted Baker's grievance to the Union's Grievance Review Committee. The Union states that the purpose of this committee is to objectively decide if grievances will proceed to arbitration based on various non-discriminatory factors such as timeliness, legal merit, etc. On November 23, 2015, the Grievance Review Committee determined it was not going to submit Baker's discharge to arbitration based on the facts and lack of legal merit. Bracy, also a member of the Teamsters Local 700, was terminated after her hearing before the Personnel Review Board, and the Grievance Review Committee similarly decided not to pursue her case to arbitration.

Baker claims that the Union participated in intentional misconduct, alleging that the Union refused to submit her case to arbitration because the Employer asked the union not to arbitrate the case. Furthermore, she believes the parties had an agreement not to pursue Baker's case to arbitration. Baker accuses the Union of previously and currently working together with the Employer to the detriment of the employees. No other evidence in support of these accusations was provided.

## **II. DISCUSSION AND ANALYSIS**

Section 10(b)(1) of the Act provides "that a labor organization or its agents shall commit an unfair labor practice ... in duty of fair representation cases only by intentional misconduct in representing employees under this Act." Because of the intentional misconduct standard, demonstration of a breach of the duty to provide fair representation, and a violation of Section 10(b)(1), requires a charging party to "prove by a preponderance of the evidence that: (1) the union's conduct was intentional, invidious and directed at charging party; and (2) the union's intentional action occurred because of and in retaliation for some past activity by the employee

or because of the employee's status (such as race, gender, or national origin), or animosity between the employee and the union's representatives (such as that based upon personal conflict or the employee's dissident union practices)." Metro. Alliance of Police v. Ill. Labor Relations Bd., Local Panel, 345 Ill. App. 3d 579,588 (1st Dist. 2003).

To prove unlawful discrimination, which is necessary to establish the second element of a Section 10(b)(1) violation, a charging party must demonstrate, by a preponderance of evidence, that: (1) the employee has engaged in activities tending to engender the animosity of union agents or that the employee's mere status, such as race, gender, religion or national origin, may have caused animosity; (2) the union was aware of the employee's activities and/or status; (3) there was an adverse representation action taken by the union; and (4) the union took an adverse action against the employee for discriminatory reasons, i.e. because of animus towards the employee's activities or status. Id. at 588-89.

In the instant case, there is insufficient evidence to raise a question for hearing for a violation of Section 10(b)(1). First of all, Baker does not provide support for her claim that an agreement between the Cook County Circuit Clerk and the Teamsters Local 700 to not pursue her grievance to arbitration existed. Nor does the Charging Party deliver evidence that Employer and the Union worked and continue to work together to the detriment of the employees. The Charging Party has also failed to produce a motive for the Union to breach its duty of fair representation in regards to her case. Finally, Bracy's grievance and termination was similar to that of Baker. The Union also declined to submit Bracy's case to arbitration, demonstrating an equality of representation by the Union.

### **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](mailto: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 5<sup>th</sup> day of January, 2017.**

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

  
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**Kimberly Stevens  
Executive Director**