

**STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION**

In the Matter of:

UAW LOCAL 699,
Labor Organization-Respondent,

-and-

LISA KLEEKAMP,
An Individual Charging Party.

MERC Case No. CU16 D-014
Hearing Docket No. 16-009232

APPEARANCES:

Lisa Kleekamp, appearing on her own behalf

DECISION AND ORDER

On July 28, 2016, Administrative Law Judge David M. Peltz issued his Decision and Recommended Order in the above matter finding that Respondent did not violate Section 10 of the Public Employment Relations Act, 1965 PA 379, as amended, and recommending that the Commission dismiss the charges and complaint.

The Decision and Recommended Order of the Administrative Law Judge was served on the interested parties in accord with Section 16 of the Act.

The parties have had an opportunity to review the Decision and Recommended Order for a period of at least 20 days from the date of service and no exceptions have been filed by either of the parties.

ORDER

Pursuant to Section 16 of the Act, the Commission adopts the recommended order of the Administrative Law Judge as its final order.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

/s/
Edward D. Callaghan, Commission Chair

/s/
Robert S. LaBrant, Commission Member

/s/
Natalie P. Yaw, Commission Member

Dated: September 16, 2016

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
EMPLOYMENT RELATIONS COMMISSION**

In the Matter of:

UAW LOCAL 699,
Respondent-Labor Organization,

Case No. CU16 D-014
Docket No. 16-009232-MERC

-and-

LISA KLEEKAMP,
An Individual Charging Party.

APPEARANCES:

Lisa Kleekamp, appearing on her own behalf

**DECISION AND RECOMMENDED ORDER
ON SUMMARY DISPOSITION**

This case arises from an unfair labor practice charge filed on April 1, 2016, by Lisa Kleekamp against UAW Local 699. Pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 and 423.216, the charge was assigned to David M. Peltz, Administrative Law Judge (ALJ) for the Michigan Administrative Hearing System (MAHS), acting on behalf of the Michigan Employment Relations Commission (MERC).

The charge asserts that Respondent violated PERA by refusing to honor Kleekamp's request that it stop collecting Union dues from her. In an order issued on April 25, 2016, I directed Respondent to file a substantive and fact specific answer or a position statement which fairly meets each of the substantive factual allegations in the charge. On April 27, 2016, the Union responded with a letter asserting that the charge should be dismissed because Kleekamp is not, and has never been, a member of UAW Local 699. According to Respondent, Kleekamp was instead likely a member of UAW Local 455.

On May 3, 2016, I issued a supplemental order in which I indicated that the factual assertion set forth by Respondent, if true, would warrant dismissal of the charge. I directed Kleekamp to file a written response to the Union's answer/position statement by no later than the close of business on May 25, 2016. Charging Party was cautioned that a timely response to the order must be filed to avoid dismissal of the charge without a hearing. To date, Charging Party has not filed a response to the supplemental order or sought to obtain an extension of time in which to file such a response.

Discussion and Conclusions of Law:

On December 11, 2012, Michigan became a “right-to-work” state with the passage of 2012 PA 349. The legislation, which became effective on March 28, 2013, amended Sections 9 and 10 of PERA, MCL 423.209 and 423.210. Section 9 of PERA sets out the rights of public employees covered under the Act. Prior to 2012 PA 349, Section 9 of PERA read:

It shall be lawful for public employees to organize together or to form, join or assist in labor organizations, to engage in lawful concerted activities for the purpose of collective negotiation or bargaining or other mutual aid and protection, or to negotiate or bargain collectively with their public employers through representatives of their own free choice.

With the passage of the right-to-work legislation, Section 9 now expressly recognizes the pre-existing entitlement of public sector employees in Michigan to refrain from engaging in the activities described therein. As amended, Section 9 provides:

(1) Public employees may do any of the following:

(a) Organize together or form, join, or assist in labor organizations; engage in lawful concerted activities for the purpose of collective negotiation or bargaining or other mutual aid and protection; or negotiate or bargain collectively with their public employers through representatives of their own free choice.

(b) Refrain from any or all of the activities identified in subdivision (a).

In addition to recognizing the right of public sector employees to refrain from engaging in certain concerted activities, the Legislature added the following two new provisions to Section 9 of the Act:

(2) No person shall by force, intimidation, or unlawful threats compel or attempt to compel any public employee to do any of the following.

(a) Become or remain a member of a labor organization or bargaining representative or otherwise affiliate with or financially support a labor organization or bargaining representative.

(b) Refrain from engaging in employment or refrain from joining a labor organization or bargaining representative or otherwise affiliating with or financially supporting a labor organization or bargaining representative.

(c) Pay to any charitable organization or third party an amount that is in lieu of, equivalent to, any portion of dues, fees, assessments, or other

charges or expenses required of members of public employees represented by a labor organization or bargaining representative.

(3) A person who violates subsection (2) is liable for a civil fine of not more than \$500.00. A civil fine recovered under this section shall be submitted to the state treasurer for deposit in the general fund of this state.

In the instant case, Charging Party alleges that Respondent acted unlawfully by refusing to honor her request that it stop collecting Union dues from her. In its answer, the Union asserts that the charge must be dismissed because it was filed against the wrong entity. According to Respondent, Kleekamp is not, and has never been, a member of UAW Local 699, an allegation which, if true, renders the charge meritless. Charging Party was given a full and fair opportunity to dispute that allegation by filing a response to the supplemental order; however, she failed or refused to do so. Accordingly, the charge must be dismissed on summary disposition. See *Detroit Federation of Teachers*, 21 MPER 3 (2008) (the failure to respond to an order to show cause may, in itself, warrant dismissal of an unfair labor practice charge).

For the above reasons, I hereby recommend that the Commission issue the following order.

RECOMMENDED ORDER

The unfair labor practice charge filed by Lisa Kleekamp against UAW Local 699 in Case No. CU16 D-014; Docket No. 16-009232 is hereby dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

David M. Peltz
Administrative Law Judge
Michigan Administrative Hearing System

Dated: July 28, 2016