

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

In the Matter of:

LIVINGSTON COUNTY,  
Public Employer- Respondent,

Case No. C02 A-014

-and-

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, LOCAL 665,  
Labor Organization-Charging Party.

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**APPEARANCES:**

Cohl, Stoker & Toskey, P.C., by John R. McGlinchey, Esq., for the Respondent

Thomas J. Eastwood, Organizer, for the Charging Party

**DECISION AND ORDER**

On March 4, 2002, Administrative Law Judge Julia C. Stern issued her 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 any 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

Maris Stella Swift, Commission Chair

Harry W. Bishop, Commission Member

C. Barry Ott, Commission Member

Dated: \_\_\_\_\_

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Thomas J. Eastwood, Organizer, for the Charging Party

**DECISION AND RECOMMENDED ORDER**  
**OF ADMINISTRATIVE LAW JUDGE**  
**ON MOTION TO DISMISS**

On January 11, 2002, the International Brotherhood of Electrical Workers, Local 665, filed the above charge against Livingston County. The charge alleged on or about July 15, 2001, Respondent suspended an employee, Jack Stewart, because of his activities on behalf of the Charging Party. Charging Party alleged that by this action Respondent violated Sections 10(1)(a) & (c) of the Public Employment Relations Act (PERA), MCL 423.210. The charge was assigned to Julia C. Stern, Administrative Law Judge for the Michigan Employment Relations Commission, for hearing. Pursuant to Sections 10 and 16 of PERA, a notice of hearing was issued on January 28, 2002.

On February 7, 2002, Respondent filed a motion for summary dismissal of the charge under R 423.165(2)(A)(c), of the Commission's revised General Rules and Regulations, effective February 1, 2002. Respondent asserted that the charge was untimely under Section 16(a) of PERA. On that same date, I directed the Charging Party to show cause on or before February 21, 2002 why the charge should not be dismissed. Charging Party did not file a response. On the basis of the above, I make the following findings of fact and conclusions of law, and recommend that the Commission issue the following order.

Facts:

As stated above, the charge was filed on January 11, 2002. The date of the alleged unfair labor practice was July 15, 2001. The charge was not accompanied by a proof of service indicating that Charging Party had served a copy of the charge on the Respondent. On January 28, 2002, I had served on Respondent a copy of the charge, along with the attached notice of hearing. There is nothing to indicate that Respondent was served with a copy of the charge before January 28.

Discussion and Conclusions of Law:

Under Section 16(a) of PERA, the Commission has no authority to find an unfair labor practice occurring more than six months prior to the filing of the charge with the commission and the service of a copy thereof upon the person against whom the charge is made. A charging party is responsible for the timely and proper service of a copy of the charge upon the charged party or parties. See R 423.453(1) of the General Rules in effect at the time the charge was filed and R 423.151(4) of the revised rules.

In this case, the charge was filed less than six months after the alleged unfair labor practice, but was not served on the Respondent until after the six month statute of limitations had expired. I conclude that Respondent's motion to dismiss the charge should be granted, and I recommend that the Commission issue the following order.

**RECOMMENDED ORDER**

The charge is hereby dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Julia C. Stern  
Administrative Law Judge

Dated: \_\_\_\_\_