

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

In the Matter of:

RIVER ROUGE SCHOOL DISTRICT,
Respondent-Public Employer,

Case No. C02 B-034

-and-

AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, COUNCIL 25,
Charging Party-Labor Organization.

APPEARANCES:

Logan, Huchla & Wycoff, P.C., by Charles E. Wycoff, Esq., for Respondent

Miller Cohen, P.C., by Eric I. Frankie, Esq., for Charging Party

**DECISION AND ORDER DENYING
MOTION FOR RECONSIDERATION**

On May 28, 2004, Administrative Law Judge (ALJ) David M. Peltz issued his Decision and Recommended Order in the above entitled matter, finding that Respondent River Rouge School District did not violate Sections 10(1)(a) and (c) of PERA and recommending that the charge filed by Charging Party American Federation of State, County and Municipal Employees, Council 25 be dismissed. Pursuant to Commission Rule 176(2), 2002 AACRS, R 423.176(2), exceptions to the ALJ's Decision and Recommended Order were due on June 21, 2004. Because no exceptions were filed, a Decision and Order was issued on August 3, 2004, adopting the ALJ's Recommended Decision and Order.

On October 7, 2004, Charging Party filed a Motion for Reconsideration, asserting that the first written notice its attorney received of the ALJ's Decision and Recommended Order was after the twenty-day time limit to file exceptions had already expired. The record reflects that Charging Party's in-house counsel, attorney Robert E. Donald Jr., represented Charging Party at the hearing and the ALJ's Decision and Recommended Order was mailed to Mr. Donald's address of record. The Motion for Reconsideration was filed by attorney Eric Frankie, who did not represent Charging Party at the hearing but did file the post-hearing brief.

Rule 167 of the Commission's General Rules, 2002 AACRS, R 423.167, governing motions for reconsideration states: "Any motion pursuant to this rule shall be filed not later than twenty days after the issuance of the commission's final order." Charging Party did not file its Motion for Reconsideration until

October 7, 2004, well past the twenty-day limitation period under Rule 167, and did not offer an adequate explanation as to why it failed to file its Motion in a timely manner.

Although Charging Party has alleged a deficiency in the service of the ALJ's Decision and Recommended Order because it was not mailed to Mr. Frankie, it has not denied the timely receipt of the Commission's Decision and Order issued August 3, 2004, with a copy of the ALJ's Decision and Recommended Order attached. Further, the Motion is not supported by an affidavit attesting to the date Mr. Frankie received the ALJ's Decision and Recommended Order; nor does the Motion itself identify such a date. In addition, although Charging Party asserts that Respondent has no objection to the timeliness of the Motion for Reconsideration, Charging Party has failed to provide a stipulation from Respondent agreeing to our reconsideration of this case.

Accordingly, we find the Motion for Reconsideration to be untimely and issue the following Order:

ORDER

It is hereby ordered that the Motion for Reconsideration is denied.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Nora Lynch, Commission Chairman

Harry W. Bishop, Commission Member

Nino E. Green, Commission Member

Dated: _____