

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

In the Matter of:

WAYNE COUNTY,  
Public Employer-Respondent,

Case No. C06 J-262

-and-

LANCE A. SIMMONS,  
An Individual-Charging Party.

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**APPEARANCES:**

Deborah K. Blair, Esq., Chief Labor Relations Analyst, for the Respondent Employer

Lance A. Simmons, *In Propria Persona*

**DECISION AND ORDER**

On January 19, 2007, Administrative Law Judge Julia C. Stern issued her Decision and Recommended Order in the above matter finding that Respondent has not engaged in and was not engaging in certain unfair labor practices, and recommending that the Commission dismiss the charges and complaint as being without merit.

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

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Christine A. Dardarian, Commission Chair

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Nino E. Green, Commission Member

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Eugene Lumberg, Commission Member

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

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Deborah K. Blair, Chief Labor Relations Analyst, for the Respondent Employer

Lance A. Simmons, *in propria persona*

DECISION AND RECOMMENDED ORDER  
OF ADMINISTRATIVE LAW JUDGE  
ON MOTION FOR SUMMARY DISPOSITION

On October 18, 2006, Lance A. Simmons filed the above charges against his employer, Wayne County (the Employer) pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 and 423.216.1 On December 5, 2006, the Employer filed a motion to dismiss asserting that Simmons' charge did not state a claim against it under PERA. Simmons filed a response in opposition to the Employer's motion on December 21, 2006.

Simmons asserts that on or about May 8, 2006, the Employer implemented a series of job changes as part of its reorganization of its department of environmental quality (DOE). According to the charge, these changes included the elimination of Simmons' position as foreman overseeing sewer maintenance and metering at the DOE's Henry Ruff Field Service Office, the replacement of his position with a field leader position in another bargaining unit, and Simmons' transfer to the DOE's Downriver Wastewater Treatment Plant. Simmons alleges that in implementing this reorganization, the Employer violated its collective bargaining agreement with Simmons' collective bargaining agent; discriminated against black, minority, and senior members of the Union's bargaining unit; and violated an agreement between the County and the Michigan Department of

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1 Simmons also filed charges (Case No CU06 J-046) against his collective bargaining representative, the Government Administrators Association, alleging that it violated its duty of fair representation by refusing to process his grievances. On January 11, 2007, I dismissed the union's motion for summary disposition in that case, and this charge remains pending.

Environmental Quality (DEQ). According to Simmons, the Employer is no longer fulfilling its obligations under the latter agreement because of staffing reductions resulting from the reorganization.

PERA protects the rights of public employees to bargain collectively with their employers through representatives of their free choice and to engage in union activity, collective bargaining and other lawful concerted activity for the purpose of mutual aid and protection as set out in Section 9 of that Act. PERA prohibits a public employer from discriminating against its employees because of their union or other activities protected by Section 9. However, PERA does not prohibit all types of discrimination or unfair treatment by public employers against their employees, nor does it provide an independent cause of action for an employer's breach of contract. *City of Benton Harbor*, 17 MPER \_\_\_ (Case Nos. C06 G-165 and CU06 G-026, issued November 14, 2006); *Ann Arbor Pub Schs*, 16 MPER 15 (2003); *Detroit Bd of Educ*, 1995 MERC Lab Op 75. Alleged violations of civil rights statutes, such as complaints of racial or age discrimination, are also outside the scope of PERA and do not state a claim upon which relief can be granted by the Michigan Employment Relations Commission. See, e.g. *City of Battle Creek*, 18 MPER 59 (2005) (no exceptions). The Commission has no authority to remedy an employer's noncompliance with environmental regulations or to monitor the Employer's agreement with the DEQ. I agree with the Employer that Simmons' charge fails to state a claim against it upon which relief can be granted under PERA. I recommend, therefore, that the Commission issue the following order.

## RECOMMENDED ORDER

The charge is dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Julia C. Stern  
Administrative Law Judge

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