

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

In the Matter of:

DETROIT PUBLIC SCHOOLS,
Public Employer - Respondent in Case No. C08 I-181,

-and-

ORGANIZATION OF SCHOOL ADMINISTRATORS AND SUPERVISORS,
Labor Organization - Respondent in Case No. CU08 I-046,

-and-

LATRICIA A. PERRY,
An Individual - Charging Party.

APPEARANCES:

Latricia A. Perry, *In Propria Persona*

DECISION AND ORDER

On October 10, 2008, Administrative Law Judge David M. Peltz issued his Decision and Recommended Order in the above matter finding that Respondents 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

Christine A. Derdarian, Commission Chair

Nino E. Green, Commission Member

Eugene Lumberg, Commission Member

Dated: _____

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
EMPLOYMENT RELATIONS COMMISSION**

In the Matter of:

DETROIT PUBLIC SCHOOLS,
Respondent-Public Employer in Case No. C08 I-181,

-and-

ORGANIZATION OF SCHOOL ADMINISTRATORS AND SUPERVISORS,
Respondent-Labor Organization in Case No. CU08 I-046,

-and-

LATRICIA A. PERRY,
An Individual Charging Party.

APPEARANCES:

Latricia A. Perry, appearing on her own behalf

**DECISION AND RECOMMENDED ORDER
ON SUMMARY DISPOSITION**

Pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 and 423.216, this case was assigned to David M. Peltz, Administrative Law Judge (ALJ) of the State Office of Administrative Hearings and Rules, acting on behalf of the Michigan Employment Relations Commission.

This matter comes before the Commission on unfair labor practice charges filed by Latricia A. Perry on September 8, 2008 against the Detroit Public Schools and the Organization of School Administrators and Supervisors (OSAS).¹ The charges alleged that due to an administrative error, Union dues were not deducted from Perry's paycheck, resulting in the termination of her employment with the school district. In an order issued on September 17, 2008, I found that the allegations failed to meet the minimum pleading requirements set forth in R 423.151(2). Accordingly, I directed Perry to show cause why the charges should not be dismissed for failure to state claims under PERA. Charging Party filed a timely response to that order on September 29, 2008.

¹ The charge erroneously identifies OSAS as the "Organization of Secondary School Administrators." Of note, Perry previously filed unfair labor practice charges against OSAS and the Detroit Public Schools in Case Nos. C07 L-272 & CU07 L-060. That case was administratively closed on January 29, 2008.

Having carefully reviewed the pleadings filed by Perry in this matter, I conclude that dismissal of the charges in these consolidated cases is warranted. Pursuant to Section 16(a) of PERA, no complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge with the Commission. The Commission has consistently held that the statute of limitations is jurisdictional and cannot be waived. *Walkerville Rural Community Schools*, 1994 MERC Lab Op 582, 583. The limitations period commences when the charging party knows or should have known of the acts constituting the unfair labor practice and has good reason to believe the acts were improper or done in an improper manner. *Huntington Woods v Wines*, 122 Mich App 650, 652 (1983).

In her response to the order to show cause, Perry alleged that the administrative error resulting in her discharge occurred during the 2006-2007 school year and that she first became aware of the error on September 14, 2007, the same day she received notice that she was facing termination for failing to pay Union dues. Charging Party further alleges that she immediately called OSAS and was told that the Union would not represent her in connection with the matter and that she should “get a lawyer.” Her discharge from employment with the school district was effective in June of 2007. Clearly, Charging Party knew or should have known of the alleged PERA violations by the Employer and the Union more than six months prior to the filing of the instant charges on September 8, 2008. Thus, I conclude that the charges against both the Employer and the Union in Case Nos. C08 I-181 and CU08 I-046 are untimely under Section 16(a) of the Act. Accordingly, I recommend that the Commission issue the order set forth below.

RECOMMENDED ORDER

It is hereby recommended that the unfair labor practice charges in Case Nos. C08 I-181 and CU08 I-046 be dismissed in their entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION



David M. Peltz
Administrative Law Judge
State Office of Administrative Hearings & Rules

Dated: _____