

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

In the Matter of:

CITY OF DETROIT (POLICE DEPARTMENT),
Respondent-Public Employer in Case No. C99 K-212,

-and-

AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, COUNCIL 25,
Respondent-Labor Organization in Case No. CU99 K-46,

-and-

NAOMI ANDERSON,
An Individual Charging Party.

APPEARANCES:

June Boyd, Esq., Assistant Corporation Counsel, for the Public Employer

Miller Cohen, P.L.C., by Richard Mack, Jr., Esq., for the Labor Organization

Benjamin and Goldfine, by Frederick B. Benjamin, Esq., for Charging Party

DECISION AND ORDER

On May 11, 2000, Administrative Law Judge Nora Lynch issued her Decision and Recommended Order in the above matter finding that Respondents did not violate Section 10 of the Public Employment Relations Act (PERA), 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

Date: _____

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NAOMI ANDERSON,
Individual Charging Party

APPEARANCES:

June Boyd, Atty, Assistant Corporation Counsel, for the Public Employer

Richard Mack, Atty, Miller Cohen, for the Labor Organization

Frederick B. Benjamin, Atty, Benjamin and Goldfine, for the Individual Charging Party

DECISION AND RECOMMENDED ORDER
OF
ADMINISTRATIVE LAW JUDGE

Pursuant to the provisions of Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210, MSA 17.455(10), this matter came on for hearing at Detroit, Michigan, on March 28, 2000, before Nora Lynch, Administrative Law Judge for the Michigan Employment Relations Commission. The proceedings were based upon unfair labor practice charges filed on November 16, 1999, by Individual Charging Party Naomi Anderson, alleging that the City of Detroit Police Department and the American Federation of State, County, and Municipal Employees, Council 25, had violated Section 10 of PERA. Based upon the record, and transcript of proceedings received on May 5, 2000, the undersigned issues the following recommended order pursuant to Section 16(b) of PERA:

The Charges and Motions to Dismiss:

The charges raise objections to the promotional procedures of the Employer, and also challenge the Union's failure to pursue grievances on behalf of Charging Party Anderson with respect to her failure to be promoted. Documents submitted by Charging Party with the charge reflect that her complaints concern matters which occurred over a period of several years, the most recent reflected in a grievance statement dated February 23, 1999.

At hearing both the Employer and the Union moved to dismiss the charges as being untimely, as well as for failure to state a claim under PERA. Section 16(a) of PERA provides that no complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge. 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; *Washtenaw County*, 1992 MERC Lab Op 471; *Shiawassee County Road Commission*, 1978 MERC Lab Op 1182. The charges, filed on November 16, 1999, are beyond the statutory time period. In addition, the charges do not appear to state a cause of action under PERA. However, because the charges were untimely, no evidence was taken as to the substance of the charges.

Based on the above, it is recommended that the motions be granted and the charges be dismissed as untimely in accordance with the following order:

RECOMMENDED ORDER

It is hereby ordered that the charges be dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Nora Lynch
Administrative Law Judge

DATED: _____