

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

In the Matter of:

WAYNE COUNTY COMMUNITY COLLEGE  
FEDERATION OF TEACHERS,  
Labor Organization-Respondent,

Case No. CU06 B-004

- and -

PATRICK EMEKA ANYANETU,  
An Individual-Charging Party.

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**APPEARANCES:**

Law Offices of Mark Cousens, by Gillian H. Talwar, Esq., for the Respondent

Patrick Emeka Anyanetu, *In Propria Persona*

**DECISION AND ORDER**

On October 23, 2006, Administrative Law Judge Julia C. Stern (ALJ) issued her Decision and Recommended Order finding that Charging Party, Patrick Emeka Anyanetu, failed to appear to present evidence to support his charge on the date noticed for hearing. The ALJ concluded that the charge against Respondent, Wayne County Community College Federation of Teachers, for violation of Section 10 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 should be dismissed pursuant to Section 72 of the Administrative Procedures Act, 1969 PA 306, MCL 24.272. The ALJ's Decision and Recommended Order was served on the interested parties in accordance with Section 16 of PERA.

On November 8, 2006, Charging Party filed exceptions to the ALJ's Decision and Recommended Order. Charging Party requests in his exceptions that the ALJ's decision be set aside due to his confusion regarding the hearing date. On December 12, 2006, Respondent filed a brief in support of the ALJ's Decision and Recommended Order.<sup>1</sup> We have reviewed Charging Party's exceptions and find them to be without merit.

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<sup>1</sup> Staff at the Bureau of Employment Relations faxed a copy of Charging Party's exceptions to Respondent's counsel on December 8, 2006. Respondent claims that it was not served with the exceptions by Charging Party as Commission Rules require, and that they did not receive the exceptions until December 8. Charging Party did not file a statement of service as required by Commission Rule 182(3), 2002 AACRS R 423.182(3), and there is no indication in the record that he ever properly served his exceptions on Respondent. Accordingly we will treat Respondent's brief in support of the ALJ's Decision and Recommended Order as timely. We note, however, that Respondent's submission and the arguments therein do not change the result in this case.

Factual Summary:

Charging Party filed a charge on February 16, 2006, against his collective bargaining representative, Wayne County Community College Federation of Teachers (Respondent). The Charge alleges that Respondent violated its duty of fair representation toward Charging Party by failing to process, and subsequently settling without his consent, two grievances filed on his behalf in February and June of 2005.

On February 28, 2006, ALJ Julia C. Stern issued a notice of hearing on the charge for June 15, 2006. The notice was served on the parties in accordance with Commission procedures, however, neither party appeared at the time set for the hearing. The ALJ rescheduled the hearing for November 7, 2006. After Charging Party requested an earlier hearing date, the matter was rescheduled to October 11, 2006, and another Notice of Hearing was issued. Charging Party did not appear at the rescheduled hearing, and his charge was dismissed on the record for his failure to appear.

Discussion and Conclusions of Law:

Pursuant to MCL 24.272, if a party in a contested matter under the Michigan Administrative Procedures Act fails to appear after proper service of notice, and no adjournment is granted, the administrative agency may proceed with the hearing and make its decision in the absence of the party. See *City of Detroit*, 16 MPER 9 (2003); *Wayne State Univ*, 2002 MERC Lab Op 101. In this case, it was at Charging Party's request that the hearing was rescheduled to the October date. After proper notice was given, Charging Party failed to appear and present evidence at the rescheduled hearing. We note that the rescheduling occurred after he failed to appear for his first properly-noticed hearing. We agree with the ALJ that under these circumstances, the charge should be dismissed in its entirety.

**ORDER**

The charge is dismissed in its entirety.

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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APPEARANCES:

Law Offices of Mark Cousens, by Gillian H. Talwar, Esq., for Respondent

DECISION AND RECOMMENDED ORDER  
OF  
ADMINISTRATIVE LAW JUDGE

Pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210, this case was scheduled for hearing at Detroit, Michigan, before Administrative Law Judge Julia C. Stern for the Michigan Employment Relations Commission.

Patrick Emeka Anyanetu filed this charge against his collective bargaining representative, the Wayne County Community College Federation of Teachers, on February 16, 2006. Anyanetu alleged that Respondent violated its duty of fair representation toward him by failing to process, and then settling without his consent, two grievances it filed on his behalf in February and June 2005.

On February 28, 2006, I issued a notice of hearing on the charge for June 15, 2006. The notice was served on both Respondent and Anyanetu along with a copy of the charge. Neither party appeared at the scheduled time on June 15. On June 20, 2006, I rescheduled the hearing. On July 14, upon Anyanetu's written request, the matter was rescheduled for October 11. Anyanetu did not appear at the hearing on that date.

If a party to a contested case under the Michigan Administrative Procedures Act fails to appear after proper service of notice, and no adjournment is granted, the administrative agency may proceed with the hearing and make its decision in the absence of the party. MCL 24.272. Since Anyanetu failed to appear at the hearing to present evidence to support his charge, 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: \_\_\_\_\_