

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

In the Matter of:

OAKLAND COUNTY DEPUTY SHERIFF'S ASSOCIATION,
Labor Organization-Respondent,

Case No. CU07 D-018

- and -

DOUGLAS EDGAR,
Individual Charging Party.

APPEARANCES:

Douglas Edgar *In Propria Persona*

DECISION AND ORDER

On May 31, 2007, Administrative Law Judge David M. Peltz issued his 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

Christine A. Dardarian, Commission Chair

Nino E. Green, Commission Member

Eugene Lumberg, Commission Member

Dated _____

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APPEARANCES:

Douglas Edgar *in pro per*

**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 and 423.216, this case was assigned for hearing before David M. Peltz, Administrative Law Judge for the Michigan Employment Relations Commission. This matter comes before the Commission on an unfair labor practice charge filed by Douglas Edgar against the Oakland County Deputy Sheriff's Association on April 12, 2007. The charge reads:

I am Deputy II with the Oakland County Sheriff's Office. My union is an agency shop and it is the Oakland County Deputy Sheriff's Association (OCDSA). We are a mixed unit, 312 and non-312 members. The Non-312 members out number the 312 members. I am 312 eligible (not challenged by the employer).

It has been almost four years and we have no contract. The huge delays are that the union has decided to challenge 312 on behalf of the non-312 members (Corrections, et. al.) For this reason I am not being represented fairly. There are hundreds of us in this situation.

It is unreasonable that a 312-eligible member must wait this lengthy time period to have access to 312, which might not be necessary anyway. The union seems to be ignoring their duty to represent the 312-eligible members.

When 312 eligible members protest or question the union at meetings we are ignored or belittled by the union President McClure or the attorney Rodger Webb.

In an order issued on April 30, 2007, Edgar was granted fourteen days in which to show cause why the charge should not be dismissed for failure to state a claim upon which relief can be granted under PERA. Charging Party did not file a response to this order.

Discussion and Conclusions of Law:

A union's duty of fair representation is comprised of three distinct responsibilities: (1) to serve the interests of all members without hostility or discrimination toward any; (2) to exercise its discretion in complete good faith and honesty, and (3) to avoid arbitrary conduct. *Vaca v Sipes*, 386 US 171, 177 (1967); *Goolsby v Detroit*, 419 Mich 651 (1984). However, the duty does not embrace matters involving the internal structure and affairs of labor organizations. *West Branch-Rose City Education Ass'n*, 17 MPER 25 (2004); *SEIU, Local 586*, 1986 MERC Lab Op 149. Internal union matters are outside the scope of PERA and are left to the members themselves to regulate. *AFSCME Council 25, Local 1918*, 1999 MERC Lab Op 11; *MESPA (Alma Pub Schs Unit)*, 1981 MERC Lab Op 149, 154. This principle is derived from Section 10(3)(a)(i) of the Act, which states that a union may prescribe its own rules pertaining to the acquisition or retention of membership. See e.g. *Org of Classified Custodians*, 1993 MERC Lab Op 170. The duty of fair representation applies only to those policies and procedures having a direct effect on terms and conditions of employment. *Id.*; *SEIU, Local 586, supra*.

In the instant case, the charge does not allege that Respondent acted arbitrarily, discriminatorily or in bad faith with respect to its representation of Edgar. Rather, it appears that Charging Party is merely dissatisfied with the Union's decision to litigate the issue of whether certain members of the bargaining unit are covered by the provisions of 1969 PA 312, as amended MCL 423.231 *et seq.* (Act 312). Such a determination by the Union constitutes a tactical decision which the Commission will not ordinarily second-guess. A labor organization has the legal discretion to make judgments about the general good of the membership and to proceed on such judgments, despite the fact that they may conflict with the desires or interests of certain employees. *Lansing Sch Dist*, 1989 MERC Lab Op 210, 218, citing *Lowe v Hotel and Restaurant Employees Union, Local 705*, 389 Mich 123 (1973). Similarly, an assertion that Union representatives are verbally abusive toward bargaining unit members constitutes an internal union matter outside the scope of PERA.

Despite having been given an opportunity to do so, Charging Party has alleged no facts from which it could be concluded that Respondent acted arbitrarily, discriminatorily or in bad faith with respect to its representation of him. Pursuant to Rule 165, R 423.165 of the General Rules and Regulations of the Employment Relations Commission, dismissal of the charge is appropriate.

RECOMMENDED ORDER

It is hereby recommended that the unfair labor practice charge be dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

David M. Peltz
Administrative Law Judge

Dated: _____