

TRUE COPY

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

In the Matter of:

AMALGAMATED TRANSIT UNION, LOCAL 1564
Labor Organization-Respondent

-and-

MERC Case No. CU18 I-030

JOSH CAMPBELL,
An Individual Charging Party.

DECISION AND ORDER

On February 27, 2019, Administrative Law Judge Travis Calderwood issued his Decision and Recommended Order¹ in the above matter finding that Respondent 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 either 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



Edward D. Callaghan, Commission Chair



Robert S. LaBrant, Commission Member



Natalie P. Yaw, Commission Member

Issued: **APR 30 2019**

¹ MAHS Hearing Docket No. 18-018823

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
EMPLOYMENT RELATIONS COMMISSION

In the Matter of:

AMALGAMATED TRANSIT UNION, LOCAL 1564
Respondent-Labor Organization in

Case No. CU18 I-030
Docket No. 18-018823-MERC

-and-

JOSH CAMPBELL,
Individual Charging Party.

DECISION AND RECOMMENDED ORDER OF
ADMINISTRATIVE LAW JUDGE ON
ORDER TO SHOW CAUSE

On September 24, 2018, Josh Campbell filed the present matter against his bargaining representative, Amalgamated Transit Union, Local 1564, (Respondent or Union) with the Michigan Employment Relations Commission (Commission). Pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 and 423.216, the charge was assigned to the Michigan Administrative Hearing System (MAHS) Administrative Law Judge Travis Calderwood, to hear this matter on behalf of the Commission.

Campbell's charge, as best can be discerned, takes issue with the Union's recent handling of an increase in membership dues. More specifically, Campbell claims that the Union's Executive Board violated its "Constitution and General Laws Book" by increasing the dues owed by its members by \$1.15 a month without first posting its intention or explaining the increase in the Union's "monthly agenda letter."

On October 3, 2018, I issued an Order to Show Cause directing Charging Party to show cause in writing why his charge against the Union should not be dismissed without hearing for failing to state a claim upon which relief could be granted under PERA. Charging Party's response was due on or before October 24, 2018. Charging Party did not file any response nor did he contact my office to request an extension in which to file a response.

Discussion and Conclusions of Law:

Rule 165 of the Commission's General Rules, R 423.165, states that the Commission or an administrative law judge designated by the Commission may, on their own motion or on a motion by any party, order dismissal of a charge without a hearing for the grounds set out in that rule, including that the charge does not state a claim upon which relief can be granted under PERA. See, *Oakland County and Sheriff*, 20 MPER 63 (2007); *aff'd* 282 Mich App 266 (2009); *aff'd* 483 Mich 1133 (2009).

The failure to respond to an order to show cause may, in itself, warrant dismissal of an unfair labor practice charge. *Detroit Federation of Teachers*, 21 MPER 3 (2008).

Charging Party's failure to respond notwithstanding, dismissal of the charge is nonetheless appropriate. It is well established law that a union's obligation to its members is comprised of three responsibilities: (1) to serve the interest 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 (1967); *Goolsby v City of Detroit*, 419 Michigan 651 (1984). Furthermore, a union's actions are lawful as long as they are not so far outside a wide range of reasonableness as to be irrational. *Airline Pilots Ass'n v O'Neill*, 499 US 65, 67 (1991). Commission case law is clear that a member's dissatisfaction with their union's effort, with the union's ultimate decision or with the outcome of those decisions, is insufficient to constitute a proper charge of a breach of the duty of fair representation. See, *Eaton Rapids Education Association*, 2001 MERC Lab Op 131.

A union's duty of fair representation extends to all bargaining unit members regardless of their membership or affiliation status with the union. See *Lansing School District*, 1989 MERC Lab Op 210. That duty extends to union conduct in representing employees in their relationship with their employer, but does not embrace matters involving the internal structure and affairs of labor organizations that do not impact upon the relationship of bargaining unit members to their employer. *West Branch-Rose City Education Ass'n*, 17 MPER 25 (2004); *SEIU, Local 586*, 1986 MERC Lab Op 149.

Here, the allegations set forth by Charging Party appear to encompass purely internal union matters. Charging Party has not alleged any facts, that, if proven true, could establish that the Union acted in any way contrary to the act. Moreover, even if the manner by which the Union, and/or its Executive Board, implemented the \$1.15 increase in membership dues did in fact violate the Union's own Constitution or bylaws, Charging Party has not articulated how such actions violate PERA.

Charging Party's filings fail to plead with any specificity facts that, if proven true, could establish a claim under PERA for which relief could be granted. As such I recommend that the Commission issue the following order:

RECOMMENDED ORDER

The charge is hereby dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION



Travis Calderwood
Administrative Law Judge
Michigan Administrative Hearing System

Dated: February 27, 2019