

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

In the Matter of:

LAKEVIEW SCHOOL DISTRICT,
Public Employer - Respondent,

Case No. C07 H-198

-and-

AARON CUSIC,
Individual Charging Party.

APPEARANCES:

Aaron Cusic, *In Propria Persona*

DECISION AND ORDER

On November 27, 2007, Administrative Law Judge Doyle O'Connor 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. Derdarian, Commission Chair

Nino E. Green, Commission Member

Eugene Lumberg, Commission Member

Dated: _____

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Respondent-Public Employer,

Case No. C07 H-198

-and-

AARON CUSIC,
Individual Charging Party.

APPEARANCES:

Aaron Cusic, Charging Party appearing personally

**DECISION AND RECOMMENDED ORDER
OF ADMINISTRATIVE LAW JUDGE
ON SUMMARY JUDGMENT**

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 Doyle O'Connor, Administrative Law Judge (ALJ) for the Michigan Employment Relations Commission. This matter is being decided pursuant to an order to show cause why the charge should not be dismissed for failure to state a claim.

The Unfair Labor Practice Charge:

On August 27, 2007, the charge was filed in this matter by Aaron Cusic asserting that his Employer, Lakeview School District, had treated Charging Party improperly or unfairly regarding his termination from employment, and, more specifically, that the Employer had failed to respond appropriately to post-termination inquiries by prospective employers. There was no allegation that Cusic had been engaged in concerted activity, or that the Employer had discriminated against or retaliated against Cusic in violation of the Act. An order to show cause why the matter should not be dismissed for failure to state a claim was issued on September 10, 2007. Charging Party Cusic did not file a response to the order.

Discussion and Conclusions of Law:

Where a charge fails to state a claim under the Act, it is subject to dismissal pursuant to an order to show cause issued under R423.165. The failure to respond to such an order may itself warrant dismissal. Regardless, PERA does not prohibit all types of

discrimination or unfair treatment. Absent a factually supported allegation that the Employer was motivated by union or other activity protected by Section 9 of PERA, the Commission is foreclosed from making a judgment on the merits or fairness of the actions complained of by Charging Party in this matter. See e.g. *City of Detroit (Fire Department)*, 1988 MERC Lab Op 561, 563-564; *Detroit Board of Education*, 1987 MERC Lab Op 523, 524. Because there is no allegation in the Charge suggesting that the Employer was motivated by Charging Party's involvement in union or other activity protected by PERA, and because no response was filed to the order to show cause, the charge against the Employer must be dismissed as it fails to state a claim upon which relief can be granted.

RECOMMENDED ORDER

The unfair labor practice charge is dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Doyle O'Connor
Administrative Law Judge

Dated: _____