

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

In the Matter of:

TECHNICAL, PROFESSIONAL AND OFFICEWORKERS
ASSOCIATION OF MICHIGAN,
Labor Organization-Respondent,

-and-

DANIEL LEE RENNER,
An Individual Charging Party.

MERC Case No. CU16 I-053
Hearing Docket No. 16-026439

APPEARANCES:

Daniel Lee Renner, appearing on his own behalf

DECISION AND ORDER

On November 22, 2016, Administrative Law Judge Travis Calderwood issued his Decision and Recommended Order 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

/s/
Edward D. Callaghan, Commission Chair

/s/
Robert S. LaBrant, Commission Member

/s/
Natalie P. Yaw, Commission Member

Dated: January 13, 2017

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
EMPLOYMENT RELATIONS COMMISSION**

In the Matter of:

TECHNICAL, PROFESSIONAL AND OFFICEWORKERS
ASSOCIATION OF MICHIGAN,
Labor Organization-Respondent,

Case No. CU16 I-053
Docket No. 16-026439-MERC

-and-

DANIEL LEE RENNER,
An Individual Charging Party.

APPEARANCES:

Daniel Lee Renner appearing on his own behalf

**DECISION AND RECOMMENDED ORDER OF
ADMINISTRATIVE LAW JUDGE**

On September 7, 2016, Daniel Lee Renner filed the above unfair labor practice charge against the Technical Professional and Officeworkers Association of Michigan (TPOAM or Union). 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 Administrative Law Judge Travis Calderwood, of the Michigan Administrative Hearing System (MAHS), acting on behalf of the Michigan Employment Relations Commission (Commission).

Charging Party alleges that the TPOAM held an “illegal” election for Union officers on August 12, 2016. In support of the charge, Renner identifies several specific sections of the Union’s internal bylaws that he claims were violated in connection with the “illegal” election. Charging Party asks this Commission to find an unfair labor practice and order that a new election for Union officers be held in compliance with the Union’s bylaws.

On October 5, 2016, I issued an Order directing Charging Party to show cause in writing why his charge against the TPOAM 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 27, 2016. Charging Party did not file any response with my office nor did he contact my office to request an extension in which to file a response.

Discussion and Conclusions of Law:

The Commission does not investigate charges filed with it. Charges filed with the Commission must comply with the Commission's General Rules.¹ More specifically, Rule 151(1) of the Commission's General Rules, R 423.151(1), states:

A charge that a person has engaged in or is engaging in an unfair labor practice in violation of LMA or PERA, may be filed with the commission. The charge shall, except for good cause shown, be prepared on a form furnished by the commission. An original and 4 copies of the charge shall be filed with the commission.

Rule 151(2)(c) of the Commission's rules, R 423.151(2)(c), requires that an unfair labor practice charge filed with the Commission include:

A clear and complete statement of the facts which allege a violation of LMA or PERA, including the date of occurrence of each particular act, the names of the agents of the charged party who engaged in the violation or violations and the sections of LMA or PERA alleged to have been violated.

Commission Rule 165, 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. *Oakland County and Sheriff*, 20 MPER 63 (2007); *aff'd* 282 Mich App 266 (2009); *aff'd* 483 Mich 1133 (2009); See also *MAPE v MERC*, 153 Mich App 536, 549 (1986).

When an Administrative Law Judge issues an order to a charging party to show cause why a charge should not be dismissed for failure to state a claim upon which relief can be granted under PERA, the failure to respond to the order may, in itself, warrant dismissal of the charge. *Detroit Pub Schs*, 29 MPER 44 (2015); *Detroit Federation of Teachers*, 21 MPER 3 (2008).

The above failure to respond notwithstanding, our Commission has held that the establishment of qualifications for holding union office, and the conduct of elections for union offices, are internal union matters not subject to the duty of fair representation. See *ATU, Local 1039*, 25 MPER 61 (2012) (no exceptions) (alleged irregularities in the conduct of an election for union officers was strictly an internal union matter). See also *International Union, UAW*, 19 MPER 9 (2006) (no exceptions) (a union's failure to follow its own bylaws in conducting an election for union officers was an internal union matter).

¹ Rule 1501 of the MAHS General Rules, R 792.11501, provides:

The general rules of the employment relations commission, R 423.101 to R 423.484, govern practice and procedure in administrative hearings conducted by the Michigan administrative hearing system in cases arising under LMA, 1939 PA 176, MCL 423.1 to 423.30, and PERA, 1947 PA 336, MCL 423.201 to 423.217, with the exclusion of parts 2 and 3 of those rules.

Charging Party's claims against the TPOAM, in so far as they are based solely on violations of the Union's internal bylaws with respect to the August 12, 2016, election, do not state a valid actionable claim under PERA. As shown above, the Commission does not involve itself in the sort of situation specifically complained of by Renner. Charging Party, despite being given the opportunity to clarify how his allegations stated a valid claim under PERA, has not done so. For this reason, it is the opinion of the undersigned that the charge should be dismissed for failure to state a claim under PERA upon which relief could be granted. I recommend, therefore, that the Commission issue the following order.

RECOMMENDED ORDER

The charge is dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Travis Calderwood
Administrative Law Judge
Michigan Administrative Hearing System

Dated: November 22, 2016