

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

In the Matter of:

CITY OF WESTLAND (POLICE DEPARTMENT),
Public Employer-Respondent in Case No. 21-K-2075-CE,

-and-

WESTLAND LIEUTENANTS AND SERGEANTS ASSOCIATION,
Labor Organization-Respondent in Case No. 21-K-2079-CU,

-and-

TIMOTHY HORVATH,
An Individual Charging Party.

APPEARANCES:

Fausone Bohn, LLP, by James G. Fausone and Brandon M. Grysko, for the Public Employer

Frank Guido, General Counsel, for the Labor Organization

Timothy Horvath, appearing on his own behalf

DECISION AND ORDER

On January 27, 2022, Administrative Law Judge David M. Peltz issued his Decision and Recommended Order¹ in the above matter finding that Respondents 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.

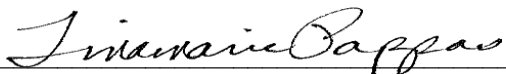
The Decision and Recommended Order of the Administrative Law Judge was served on the interested parties in accord with Section 16 of the Act.

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 any of the parties.

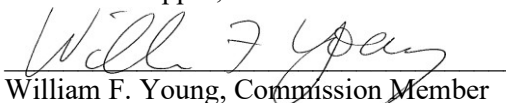
ORDER

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



Tinamarie Pappas, Commission Chair



William F. Young, Commission Member

Issued: March 31, 2022

¹ MOAHR Hearing Docket Nos. 21-030604 & 21-030605

**STATE OF MICHIGAN
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
EMPLOYMENT RELATIONS COMMISSION**

In the Matter of:

CITY OF WESTLAND (POLICE DEPARTMENT),
Respondent-Public Employer in Case No. 21-K-2075-CE; Docket No. 21-030604-
MERC,

-and-

WESTLAND LIEUTENANTS AND SERGEANTS ASSOCIATION,
Respondent-Labor Organization in Case No. 21-K-2079-CU; Docket No. 21-030605-
MERC,

-and-

TIMOTHY HORVATH,
An Individual Charging Party.

APPEARANCES:

Fausone Bohn, LLP, by James G. Fausone and Brandon M. Grysko, for the Public Employer

Frank Guido, General Counsel, for the Labor Organization

Timothy Horvath, appearing on his own behalf

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

This case arises from unfair labor practice charges filed on November 8, 2021, by Timothy Horvath against the City of Westland (the Employer) and the Westland Lieutenants and Sergeants Association (the Union).¹ 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 David M. Peltz, Administrative Law Judge (ALJ) for the Michigan Office of Administrative Hearings and Rules (MOAHR), acting on behalf of the Michigan Employment Relations Commission (Commission).

¹ Horvath previously filed charges against the City (Case No. 21-H-1709-CE; Docket No. 21-021482-MERC) and the Union (Case No. 21-H-1710-CU; Docket No. 21-021487-MERC) on August 30, 2021. Oral argument was held on those charges on October 5, 2021, and a decision remains pending.

The Charges and Procedural History:

The charge in Case No. 21-K02075-CE; Docket No. 21-030604-MERC states, in its entirety, that the Employer:

- *Failed to provide reports, audio and video in a timely manner of incident proceed [sic] with grievance process*
- *Failed to forward all audio recordings of hearings and or interviews as agreed upon at HR hearing;*
- *Collided [sic] with union to make an example*

In Case No. 21-K-2079-CU; Docket No. 21-030605-MERC, the charge asserts, in its entirety, that the Union:

- *[F]ailed to represent*
- *Failed to provide reports, audio and video in a timely manner to proceed with grievance process*
- *Failed to contest discrepancies in the investigation*
- *Made agreement with City and police admin in regards to incident videos and audio without complainant's knowledge which handcuffed ability to grieve.*

On November 24, 2021, the Employer filed a motion for summary disposition, arguing that the unfair labor practice charge in Case No. 21-K-2075-CE; Docket No. 21-030604-MERC should be dismissed for failure to comply with the basic pleading requirements set forth in Rule 151, R 423.151 of the General Rules and Regulations of the Employment Relations Commission, and on the ground that Charging Party lacks standing to raise a claim asserting a violation of the duty to bargain under Section 10(1) of the Act.

Upon review of the charges, I determined that the allegations set forth by Charging Party against both the Employer and the Union failed to meet the minimum pleading requirements set forth in Rule 151(2), which requires that an unfair labor practice charge include a clear and complete statement of the facts which allege a violation of PERA, including the date of occurrence of each particular act and the names of the agents of the charged party who engaged therein and the particular sections of PERA alleged to have been violated. Accordingly, in an order issued on December 1, 2021, I directed Horvath to submit a more definite statement with respect to both of the charges. At the same time, I directed Charging Party to submit a written response to the motion for summary disposition filed by the Employer. Charging Party's response to the pretrial order was due by no later than the close of business on December 15, 2021. Charging Party did not file a response to the pretrial order, nor did he request an extension of time in which to do so.

On January 10, 2022, I issued an order requiring Charging Party to show cause why the charges should not be dismissed without a hearing. Charging Party was directed to either withdraw the charges or to provide good cause for his failure to comply with the earlier order. Horvath's response was due by the close of business on January 24, 2022. Once again, Horvath failed to file a response to the order.

Discussion and Conclusions of Law:

Pursuant to Rule 165(1), R 423.165(1), of the General Rules and Regulations of the Employment Relations Commission, which govern practice and procedure in administrative hearings conducted under PERA by MOAHR, the ALJ may “on [his] own motion or on a motion by any party, order dismissal of a charge or issue a ruling in favor of the charging party.” Among the various grounds for summary dismissal of a charge is a failure by a party to respond to a dispositive motion or show cause order.

In the instant case, Charging Party failed to respond to the motion for summary disposition filed by the Employer, the order requiring Horvath to submit a more definite statement of the allegations set forth in both of the charges and the order directing him to show cause why the charges should not be dismissed. Under such circumstances, I conclude that both of the charges have been abandoned by Horvath and must be dismissed without a hearing on that basis. Accordingly, I recommend that the Commission issue the following order.

RECOMMENDED ORDER

The unfair labor practice charge filed by Timothy Horvath against the City of Westland in Case No. 21-K02075-CE; Docket No. 21-030604-MERC and the charge against the Westland Lieutenants and Sergeants Association in Case No. 21-K-2079-CU; Docket No. 21-030605-MERC, are hereby dismissed in their entireties.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION



David M. Peltz
Administrative Law Judge
Michigan Office of Administrative Hearings and Rules

Dated: January 27, 2022