

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

In the Matter of:

GRAND RAPIDS EMPLOYEES INDEPENDENT UNION,  
Labor Organization-Respondent,

MERC Case No. CU18 D-007

-and-

TATYANA FORD,  
An Individual Charging Party.

---

APPEARANCES:

Kalniz, Iorio & Reardon Co., L.P.A., by Fil Iorio, for Respondent

Tatyana Ford, appearing on her own behalf

**DECISION AND ORDER**

On August 24, 2018, Administrative Law Judge Travis Calderwood issued his Decision and Recommended Order<sup>1</sup> 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: October 25, 2018

---

<sup>1</sup> MAHS Hearing Docket No. 18-007461

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

In the Matter of:

GRAND RAPIDS EMPLOYEES INDEPENDENT UNION,  
Respondent-Labor Organization,

Case No. CU18 D-007  
Docket No. 18-007461-MERC

-and-

TATYANA FORD,  
An Individual Charging Party.

---

**APPEARANCES:**

Kalniz, Iorio & Reardon Co., L.P.A., by Fil Iorio for the Respondent

Tatyana Ford appearing on her own behalf

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

On April 12, 2018, Charging Party, Tatyana Ford, filed the above unfair labor practice charge with the Michigan Employment Relations Commission (Commission) against her bargaining representative, the Grand Rapids Employees Independent Union (GREIU). Pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, the charge was assigned to Administrative Law Judge Travis Calderwood of the Michigan Administrative Hearing System.

**Unfair Labor Practice Charge and Background:**

Charging Party alleges that the GREIU violated Section 10(2)(a) of the Act by preventing her from accepting a nomination to seek election for the position of Steward. More specifically, Charging Party claims that, because she filed previous charges with the Commission against her Union, GREIU President Ken Godwin directed a GREIU staff member to not contact her to accept a nomination for the Steward position. The charge was initially set to be heard on May 30, 2018.

On May 10, 2018, Respondent filed a motion seeking dismissal of the charge under Rule 423.165(2)(c) of the Commission's General Rules, R 423.165, 2002 AACS; 2014 AACS, arguing that the charge was untimely. On May 15, 2018, I directed Charging Party to respond in writing to the GREIU motion. I further indicated that the May 30, 2018, hearing in the present matter would be adjourned without date pending receipt and review of Charging Party's written response.

Charging Party filed her response to Respondent's motion on May 29, 2018, in which she provided more details regarding her allegations. Charging Party claims that she, along with two other employees, were nominated for the Steward position in the City of Grand Rapids Fleet Department. The election to fill the Steward position was scheduled for September 15, 2017. According to Charging Party, the Union's election process requires that members nominated for positions be called by the Union prior to the election to allow them the opportunity to accept the nomination. Charging Party claims that as of September 11, 2017, she had not received the phone call to accept the nomination; the other two individuals had received calls. That day she asked the Union's 2<sup>nd</sup> Vice President why she had not yet been called. Later that same day she was called, and she did accept the nomination. Sometime before the election, the other individuals also running for the Steward position withdrew from the election thereby securing the election in Ford's favor.

Ford further claims that, on October 6, 2017, during a conversation with Thea McAlpine, the GREIU's Office Manager, McAlpine admitted that she was directed by Godwin, the GREIU President, not to contact Charging Party regarding her nomination. On October 9, 2017, Ford filed internal charges with her Union against Godwin. The GREIU held a hearing on those charges on November 29, 2017. At this hearing, text messages between Godwin and the GREIU's 2<sup>nd</sup> Vice President confirmed, according to Ford, that Godwin had instructed that Ford would not be contacted to accept the nomination. In addressing the timeliness issue, Ford, in her response to my order stated specifically:

Before 11/29/17, I hadn't any knowledge as to the existence of such communication, fact/evidence. This day (11/29/2017) is the day when I first received knowledge of the text, and thus the realization and proof, that there had indeed, been a violation of Section 10 of [PERA].

Prior to the present proceeding, Charging Party had filed two other unfair labor practice charges against the GREIU, Case Nos. CU16 J-054 and CU16 J-055 claiming that the Union had unlawfully violated its constitution and breached its duty of fair representation under PERA by refusing to advance a grievance challenging a suspension received by Charging Party to arbitration. On December 19, 2017, ALJ David M. Peltz, issued a decision and recommended order dismissing both charges. On May 17, 2018, after the filing of the instant charge, the Commission, upon considering exceptions to the ALJ's decision and recommended order filed by Charging Party, affirmed the ALJ's decision and dismissed both cases. See *Grand Rapids Employees Independent Union*, 31 MPER 62 (2018).

#### Discussion and Conclusions of Law:

Charges under PERA must be filed within six months of the alleged unfair labor practice. MCL 423.216(a). The Commission has consistently held that the statute of limitations is jurisdictional and cannot be waived. *Walkerville Rural Comm Sch*, 1994 MERC Lab Op 582, 583. Under Section 16(a) of the act, the six-month period begins to run when the charging party "knows of the act which caused [the] injury, and has good reason to believe that the act was improper or done in an improper manner," even if the person does not realize that they have suffered an invasion of a legal right. *City of Huntington Woods v Wine*, 122 Mich App 650, 652 (1983).

In *City of Huntington Woods*, the Court affirmed the Commission's dismissal of the charging party's claims that he was unlawfully passed over for a promotion. The Court found that the statute of limitations began to run on the day that the charging party learned another employee had been promoted over him and not the date that charging party learned of issues regarding examination scores used in the promotion decision. When addressing the standard by which a party's knowledge is considered for purposes of PERA's statute of limitations, the Court stated at 652:

With respect to determining when a person discovers, or knows or has reason to know of, his cause of action so as to commence the running of the limitation period, we have explained that it is not necessary that the person recognize that he has suffered invasion of a legal right. Nor is running of the limitation period held in abeyance until a person obtains professional assistance to help him determine whether he has a cause of action. Rather, the limitation period commences when the person knows of the act which caused his injury, and has good reason to believe that the act was improper or done in an improper manner. [Internal Citations Omitted]

Here it is clear that Charging Party learned on October 6, 2017, that Godwin had instructed the Union's office manager not to contact her regarding her nomination. Godwin's directive is the injury on which Charging Party has brought the instant charge. Moreover, armed with that knowledge, Charging Party then filed internal charges against Godwin on October 9, 2017. Accordingly, it is my finding that, as early as October 6, 2017, or at the latest, October 9, 2017, Charging Party had good reason to believe the Union's failure to contact her to accept the nomination was either improper or done in an improper manner. As such, the statute of limitations in this proceeding expired on either April 6 or April 9, 2018, and Charging Party's April 12, 2018, filing is untimely.

I have considered all other arguments as set forth by the parties and conclude that such does not justify a change in my conclusion. Accordingly, and as set forth above, I conclude that Charging Party's claim in this matter is barred by PERA's statute of limitations and 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: August 24, 2018