

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

In the Matter of:

MICHIGAN EDUCATION ASSOCIATION,
Labor Organization-Respondent

MERC Case No. 20-A-0145-CU

-and-

STEVE FOX,
An Individual Charging Party.

_____ /

APPEARANCES:

Steve Fox, appearing on his own behalf

DECISION AND ORDER

On April 7, 2020, Administrative Law Judge David M. Peltz 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.

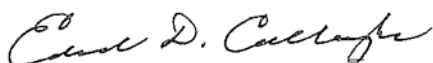
ORDER

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

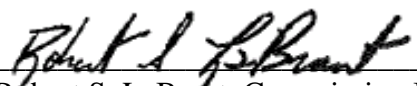


Samuel R. Bagenstos, Commission Chair



Edward D. Callaghan, Commission Member

Issued: 08-04-2020



Robert S. LaBrant, Commission Member

¹ MOAHR Hearing Docket No. 20-002149

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

In the Matter of:

MICHIGAN EDUCATION ASSOCIATION,
Respondent-Labor Organization,

Case No. 20-A-0145-CU
Docket No. 20-002149-MERC

-and-

STEVE FOX,
An Individual Charging Party.

APPEARANCES:

White Schneider PC, by Jeffrey S. Donahue, for Respondent

Steve Fox, appearing on his own behalf

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

This case arises from an unfair labor practice charge filed on January 24, 2020, by Steve Fox against the Michigan Education Association. 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).

Procedural History:

An evidentiary hearing was scheduled for Monday, March 9, 2020, beginning at 10:00 a.m. in our Lansing office. On February 27, 2020, Respondent filed a motion for summary disposition. Charging Party filed a response to the motion by email dated March 5, 2020. On March 6, 2020, I notified the parties that the hearing remained scheduled for March 9, 2020, and that Respondent's motion and response would be the subject of discussion at the start of the proceedings.

The Respondent's representative and witness appeared for hearing on March 9, 2020. Charging Party, however, did not appear for the hearing or contact my office to explain his absence. On March 10, 2020, I issued an Order directing Charging Party to show cause why the charge should not be dismissed on the ground that the case had been abandoned. In the Order, I

cautioned Charging Party that to avoid dismissal of the charge, the response must set forth the reason for Charging Party's failure to appear for hearing at the time and date scheduled, along with any supporting documentation, if applicable. Pursuant to the Order, Charging Party's response was due by the close of business on March 24, 2020.

Charging Party did not file a response to the Order to Show Cause by the deadline specified therein. On April 2, 2020, my office contacted Charging Party by email to confirm that he did not attempt to file a response. Charging Party replied to the email on April 6, 2020, writing, "I,m [sic] sorry I did not file anything." The email does not refer to or attempt to explain Charging Party's failure to appear for the March 9, 2020, evidentiary hearing.

Discussion and Conclusions of Law:

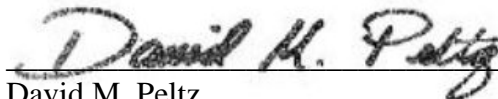
Pursuant to Rule 165(1), R 423.165(1), of the General Rules and Regulations of the Employment Relations Commission, which govern practice and procedure in administrative hearings conducted under PERA by MOAHR, the ALJ may "on [his] own motion or on a motion by any party, order dismissal of a charge or 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 appear for a hearing or pre-hearing conference. See Rule 165(2)(g). In addition, Rule 165(h) provides that a charge may be dismissed on summary disposition where a party fails to timely respond to a dispositive motion or show cause order.

In the instant case, Charging Party failed to appear for the hearing which was scheduled for March 9, 2020, in Lansing, Michigan. Moreover, despite having been directed to do so, Charging Party failed to file a response to the Order to Show Cause explaining the reason for his absence on the specified date and time. For these reasons, I find that dismissal of the charge on summary disposition is appropriate and recommend that the Commission issue the following order.

RECOMMENDED ORDER

The unfair labor practice charge filed by Steve Fox against the Michigan Education Association in Case No. 20-A-0145-CU; Docket No. 20-002149-MERC is hereby dismissed in its entirety.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION



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

Dated: April 7, 2020