

LOS ANGELES COUNTY
EMPLOYEE RELATIONS COMMISSION

In the Matter of)	
)	
AMERICAN FEDERATION OF STATE,)	
COUNTY, AND MUNICIPAL EMPLOYEES)	
(AFSCME), LOCAL 1271)	
)	
Charging Party)	UFC 021-16
)	
v.)	
)	
LOS ANGELES COUNTY DEPARTMENT)	
OF HEALTH SERVICES)	
)	
Respondent)	
)	

DECISION AND ORDER

This Decision and Order pertains to proceedings that were based on a charge filed with the Los Angeles County Employee Relations Commission on October 6, 2016, by the American Federation of State, County, and Municipal Employees (AFSCME). AFSCME filed an Unfair Practice Charge alleging that the Los Angeles County Department of Health Services engaged in an unfair employee relations practice in violation of the Los Angeles County Code, Sections 5.04.030, subdivision (o), 5.04.070 and 5.04.090. The Hearing Officer for this matter was Samuel D. Reyes and the hearing commenced on October 23, 2017.

AFSCME charged that Respondent discriminated against County employees it represents by failing to retroactively pay the employees a wage increase tentatively agreed to on November 8, 2013, and which increase was paid to other represented employees during the same bargaining cycle. The discrimination was alleged to have occurred because the employees represented by AFSCME exercised protected rights in their collective fight to retain existing health insurance. The County's contention was that the wage increases were paid to all units consistent with its practice of making salary increases effective in the month in which the agreement is reached on all items subject to bargaining.

Oral and documentary evidence was received at the hearing. Both parties submitted initial closing arguments and Respondent submitted a reply closing argument. The matter was submitted for decision on December 22, 2017.

Mr. Reyes, the Hearing Officer, thoroughly assessed the facts and outlined the continuing dates for bargaining that took place from late 2010 through November 2013. On November 7, 2013 a tentative agreement had been reached on all items, except for health benefits. The tentative agreement with respect to salaries called for unit members to receive a two percent salary increase, "effective upon date of implementation" and two percent salary increases on subsequent dates in October 2014 and April 2015.

On November 7, 2013, the Department made its last best and final offer. The Union rejected the Department's offer. All other Unions accepted their respective offers and contracts (MOUs) were signed. At the time of the Union's rejection of the Department's last, best, and final offer, the Employee Relations Commission did not have any sitting members and the parties could not avail themselves of impasse resolution procedures.

Subsequently, an unfair charge was filed and heard by Hearing Officer Jan Stiglitz who found in favor of the Department. His opinion stated that the charges should be dismissed and he concluded that health benefits were a mandatory subject of bargaining. Additionally, he opined that the Department could insist on a different health program for new employees, and that such insistence did not constitute interference or discrimination pursuant to the ERO.

The parties returned to the bargaining table in November 2015 and after four sessions went to mediation. The parties reached a tentative agreement on January 11, 2016. This contract was effective from October 1, 2013 through September 30, 2018.

Mr. Reyes determined that AFSCME, the charging party, had not established that the County (Respondent) discriminated against its members for exercising protected rights. He provided a detailed explanation, and supporting documentation, for his decision.

No oppositions were filed relative to this case.

The Hearing Officer recommended the following to the Commission:


That the Commission adopt the Findings of Fact and Discussion and Conclusions and dismiss the charge.

ORDERS

IT IS HEREBY ORDERED that the Hearing Officer's Report and Recommendation be adopted in totality.

IT IS HEREBY ORDERED that Unfair Practice Charge 21-16 be dismissed in its entirety.

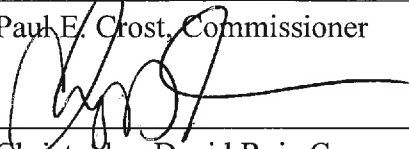
Dated at Los Angeles, California: March 19, 2018



Anthony Miller, Chair



Paul E. Crost, Commissioner



Christopher David Ruiz Cameron,
Commissioner

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STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am a resident of the aforesaid county; I am over the age of eighteen years and not a party to the within entitled action; my business address is 500 W. Temple Street, 374 Hall of Administration, Los Angeles, CA 90012.

On March 20, 2018, I served the within DECISION AND ORDER in the matter of UFC 021-16 on the interested parties in said action, by electronic transmission. The electronic transmission report indicated that the transmission was complete and without error. Service was completed as follows:

Jeffrey M. Hausman Hausman & Sosa, LLP 20750 Ventura Blvd., Suite 105 Woodland Hills, CA 91364 Email: JHausman@hausmansosa.com	Eli Naduris-Weissman Rothner, Segall & Greenstone 510 So. Marengo Avenue Pasadena, CA 91101-3115 Email: enw@rsglabor.com
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Executed on March 20, 2018 at Los Angeles, California. I declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct.


Rose Henderson