

LOS ANGELES COUNTY  
EMPLOYEE RELATIONS COMMISSION

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EMPLOYEE RELATIONS COMM.  
LOS ANGELES  
DEC 18 9 45 AM '74

In the Matter of

JOINT COUNCIL OF LACEA, LOCAL 660,  
SEIU, AND SSW, LOCAL 535, SEIU

Charging Party,

and

MRS. RUBY BAKER, SUPERVISING CHILDREN  
SERVICES WORKER, REGION II, EXPOSITION  
PARK, PUBLIC SOCIAL SERVICES,

Respondent

UFC 55.9

Appearances: For the Charging Party: Tony Butka,  
Research Director,  
LACEA/SEIU, Local 660  
For the Respondent: Joe Ben Hudgens,  
Deputy County Counsel

REPORT OF HEARING OFFICER

On May 2, 1974, Joint Council of LACEA, Local 660, SEIU and SSW, Local 535, SEIU, hereinafter referred to as the "Union", filed charges against Mrs. Ruby Baker, Supervising Children Services Worker, Region II, Esposition Park, Public Social Services, hereinafter referred to as the "Respondent" alleging that four Children Services Workers, (Lloyd Roth, Ruth Craft, Gayle Gates and Lillian Gurdal), were subjected to ".....interference, restraint, and coercion" as the result of filing a grievance on February 6, 1974 against the Respondent. The Charge alleges a violation

of Section 12(a)1 of the Employee Relations Ordinance, hereinafter referred to as the "Ordinance", and requested as a remedy that the Respondent be transferred from the working unit of the employees who filed the grievance.

On July 5, 1974, the Los Angeles County Employee Relations Commission, hereinafter referred to as the "Commission", issued its CHARGE AND NOTICE OF HEARING. On July 15, 1974, Respondent filed a Motion to Dismiss the Charge, claiming that the matter was moot since the Respondent no longer supervised the grievants involved. Respondent further pointed out that since this was the only remedy requested by the Charging Party no further relief could be ordered by the Commission. On the same day, Respondent filed a Motion for a Bill of Particulars in the event that the Motion to Dismiss was denied. The Commission referred both Motions to the undersigned Hearing Officer for appropriate disposition.

On July 23, 1974, the Undersigned denied the Motion to Dismiss and granted, in part, the Motion for a Bill of Particulars. On August 2, 1974, the Union filed a Bill of Particulars listing 19 specific points in support of its Charge.. On August 15, 1974, the Respondent filed her answer to the Bill of Particulars admitting some of the specific allegations enumerated in the Bill of Particulars but denying that she had committed any unfair employee relations practices.

Hearings were held on August 23 and September 12, 1974. A Brief was filed by the Respondent. <sup>1</sup>

1. An unsigned, undated, single-spaced, 11 page document purportedly from the Union was received subsequent to the agreed upon filing date for Briefs. The Hearing Officer has not considered its contents in this report.

## Summary of Facts

### Background

Involved in this proceeding was the Children's Services unit supervised by the Respondent. The Children's Services workers assigned to the unit were principally responsible for supervising children in either foster homes or special institutions. Their work entails a high degree of individual, non-routine skills in relation to the problem children, their natural parents as well as the foster parents with whom the children are placed.

In November, 1973, Respondent had returned to work after having been on sick leave for approximately seven weeks. Upon her return she found many problems existing in the unit, a "lot of undercurrents", anger and hostilities directed toward her.

On February 6, 1974, the four employees filed a group grievance alleging, among other things, that the Respondent violated certain sections of the personnel manual; questioning the quality of her supervision; claiming that she abused her "supervisory prerogatives regarding unit coverage, vacation time, work schedules, case work practices, etc." resulting in "the tension, anger and depression of all the grieving workers...." This was the first grievance ever filed against the Respondent.

At the time of the filing of the group grievance there were six Children's Services Workers in this particular unit. The four workers involved in the group grievance have worked for the County over a span of from four to seven years and

had been under the supervision of the Respondent for a period ranging from approximately one-and-one-half to four years. The Respondent, herself, has been a member of Local 660, one of the locals participating in the Charge against her, since 1961.

It is apparent from the record that the relationship between the Respondent and grievants had been deteriorating over a period of months and culminated in the filing of the group grievance. The specific allegations set forth in the grievance are, of course, not before the Hearing Officer. The Charge which is before the Undersigned confines itself to the claim that the Respondent discriminated against the grievants because they had filed the group grievance on February 6. This background information is important, however, in evaluating some of the specific points detailed in the Union's Bill of Particulars filed in support of its Charge.

#### Specific Allegations Cited by the Union in Support of Its Charge

At the Hearing the Parties agreed to consider each of the allegations enumerated by the Union in its Bill of Particulars.<sup>2</sup> At the conclusion of the Hearing, the Union withdrew Items 18 and 19. Remaining are 17 specific acts or incidents which the Union claims are supportive of its contentions that Respondent has discriminated against the employees in violation of the Ordinance. With the exception of one general incident, each allegation involves a

<sup>2</sup>. Hereafter, each allegation in the Bill of Particulars will be referred to as a numbered Item

specific grievant. After briefly summarizing the evidence regarding the general incident (Item 1), each of the remaining allegations will be considered in relation to the specific grievant involved.

A. Intra-Office Communication of February 7, 1974 -

The Union claims that soon after the filing of the group grievance, the Respondent solicited from the two non-grieving employees in the unit an intra-office communication referred to as a "gram", "sharply criticizing the grievants from exercising their rights to grieve." Evidence indicates that a gram dated February 7, 1974, signed by the two non-grieving employees was, in fact, sent to the Respondent's supervisor. In this communication the two workers referred to the "secretive, underhanded manner" in which the grievance had been filed - that it was "most unprofessional, immature, discriminatory....." The two employees requested permission to be present and have an active part in the pending grievance hearing.

The Respondent denies that she solicited the gram. One of the non-grieving employees, who admits having helped prepare the gram and giving it to the Respondent, also denies that the Respondent had any knowledge prior to her having been given a copy of it. No evidence was adduced at the Hearing which would have supported the Union's claim that the Respondent solicited the gram of February 7, 1974.

B. Incidents involving grievant Ruth Craft - Grievant Craft maintains that, on three different occasions subsequent to the filing of the group grievance, Respondent interfered and coerced her for having been a party to the

group grievance.

The first such incident occurred on or about April 29, 1974, when Craft complained that Respondent had failed to leave a message after having received a telephone call from one of Craft's foster mothers. Respondent concedes that she did receive such a call on a Friday while Craft was out of the office and that she had suggested to the foster mother that she call Craft on the following Monday if anything urgent developed regarding the child involved. Respondent testified that no message was left for Craft inasmuch as the foster mother had not indicated that an immediate, urgent problem existed. The following Monday the foster mother did call Craft and discussed the matter with her.

Craft claims that the failure on the part of the Respondent to leave her a message of the Friday telephone call was the result of her having been a participant in the group grievance (Item 10).

The next incident pertains to Craft's April, 1974 Performance Evaluation rating (Item 3). It is the grievant's contention that she had to "twist and beg and plead to get a decent evaluation" and that this was because she had been a party to the grievance.

The evidence, however, indicates that after discussing the rough draft with her, the Respondent reviewed Craft's Performance Evaluation with her own superior. In the final evaluation Craft was rated as competent and for the first time received an outstanding rating in two categories.

The final allegation involving Craft occurred in May, 1974. The Union maintains that the Respondent failed to

notify Craft about a complaint that she had received from a client who desired to have her (Craft) removed from the case. Craft claims that hearing about the complaint belatedly had an "intimidating, negative effect" upon her and that the sequence of events was the result of filing the grievance.

Respondent contends that when she originally heard about the complaint she did not consider it significant enough to discuss with Craft. Later, she discussed this matter with her supervisor who suggested that she tell Craft about the complaint. Respondent testified that Craft had been very conscientious in providing service to the parties involved and that she had no intention of removing her from the case. (Item 2).

In summary, Craft's complaints involve her failure to receive a telephone message, being advised belatedly about a complaint against her from one of her clients and having had to "twist, beg and plead" for a decent evaluation - an evaluation which was, in fact, better than the one she had received from the Respondent the previous year.

C. Incidents Involving Grievant Lloyd Roth - Roth claims that on February 15, 1974, he submitted a request for a vacation but failed to receive approval from Respondent's supervisor (Item 14). Evidence at the Hearing revealed that Respondent approved Roth's request and sent it on to her superior the very same day that she received the request from Roth. Even though approval had not been received from Respondent's superior, Roth took his vacation as planned.



After all evidence was submitted by the Union on this point, Respondent's Counsel moved that this Item be dismissed. Hearing Officer granted Counsel's motion.

On March 15, 1974, the Union alleges that Roth was "threatened with insubordination by Respondent if he..... did not agree to provide transportation of a Child" and that such action were the result of filing the grievance. (Item 15).

Evidence adduced at the Hearing revealed that Respondent, in an effort to comply with a Court Order which required, on short notice, that a ward of the Court be transported to an institution in Riverside County, requested Roth to escort the child and provide such transportation. Roth objected, claiming that it would interfere with his other work and in a memo to Respondent requested that she "put in writing" the answers to certain questions he had regarding the assignment. He testified at the Hearing that subsequent to the filing of the grievance he began asking for things in writing even though it was not customary beforehand. Under orders from Respondent's supervisor, Roth finally agreed to transport the child. In answer to Union Counsel's question as to whether he felt that the sequence of events occurred as a result of his having filed a grievance Roth replied: "It seemed that they were trying to hassle me."

On Monday, March 18, Respondent received a complaint from a foster mother who was requesting that Roth be removed from her case. Having just had a disagreement with Roth on the previous Friday involving the transportation



of the child, the Respondent decided to refer this new problem involving Roth to her superior before discussing it with him. A joint meeting was then arranged between Roth, the Respondent and Respondent's supervisor, at which time it was decided not to remove Roth from the case despite the fact that the foster mother had stated that she did not want him in her home again. After the meeting, Roth sent a four page gram to Respondent and her supervisor, once again requesting answers to certain questions "in writing" and stating that he believed that an attempt was being made to "entrap" him. Roth's principal complaint was that he had not been informed about the call from the foster mother prior to attending the meeting with Respondent and Respondent's supervisor and felt that he had been "mistreated". (Item 16)

He filed a new grievance on March 25, 1974, relating to the events enumerated in Items 15 and 16. The grievance was subsequently denied.

On or about May 2, 1974, Roth was advised about a complaint received from another case worker which involved a foster mother who was caring for a child under Roth's supervision as well as another child who was under the supervision of the complaining case worker. Roth's principal concern in this situation was that the Respondent called the foster mother before informing him of the other worker's complaint. Once again he wrote a gram and filed a grievance which was subsequently denied. (Item 17)

In summary, Roth's complaints involve an alleged delay in handling his vacation request, his being ordered to

transport a child in an emergency, and the manner in which Respondent handled complaints against him from a foster mother and another case worker.

D. Incidents Involving Grievant Gayle Gates - On or about February 13, 1974, Gates, after assuming that a case would be transferred from her to another office, was advised by Respondent that she was to retain the case. Gates wrote a gram to Respondent asking "on what basis your decision has been made and why.....". In a gram dated February 12, Respondent replied to Gates explaining the reasons why the case was not being transferred. Gates claims that she felt "uneasy" about the sequence of events and that it was the result of her having filed the grievance. (Item 13).

On or about March 29, 1974, the Union alleges that Respondent attempted to interfere with Gates' efforts to arrange for unit coverage while a Hearing was being held on the group grievance. Gates had asked a trainee to cover for her while she attended the Grievance Hearing. In the meantime Respondent had arranged for a more experienced case worker for the unit coverage. After the Hearing was held she asked for, and was granted, a conference with Respondent, at which time she told Respondent she did not appreciate the way Respondent had handled the matter of arranging unit coverage. Gates claimed that "normal" practice was not followed and that the manner in which coverage was arranged "upset" her and that she ".....was being set up for something." The sequence of events pertaining to this incident, according to Gates, constituted "interference, coercion" as the result of the filing of the group grievance. (Item 12)

Finally, in April, 1974, Respondent conferred with Gates regarding her annual Performance Evaluation. Gates claims that the rough draft was unacceptable, that it was not reflective of the skills she had. After further discussing the matter with her, Respondent revised the evaluation to Gates' satisfaction. In her over-all evaluation, Respondent stated that Gates had "good diagnostic skills which enables (her) to work with multi-problem families." She also referred to her utilizing ".....good case work skills in handling the many problems....." .(Item 11)

Nevertheless, Gates believes that the "sequence of events pertaining to her evaluation "transpired as part of (her).....being a participant in the grievance....."

In summary, Gates claims that action taken by the Respondent with respect to the possible transfer of a case to another regional office, the manner of arranging unit coverage while she was absent, and effort she had to expend in order to achieve a satisfactory evaluation were all the result of her participation in the group grievance.

E. Incidents Involving Grievant Lillian Gurdal - The remaining six counts listed in the Union's Bill of Particulars involve the grievant, Gurdal. The first two (Items 4 and 5) are concerned with the discussions and conferences held in the latter part of February and March between Gurdal, Respondent and Respondent's supervisor. Gurdal testified that she felt "intimidated", that she was made to look as though she was "reluctant" to accept the case under consideration. The case was never transferred to her for reasons not relevant to the issue at hand. At no time during any

of the discussions or conferences was there any mention made of the filing of the group grievance.

The next count also involves a discussion with Respondent - this one occurring in April, 1974. (Item 6). This incident centered on a case where a child had run away from his foster mother's home while Gurdal was on vacation. Upon her return from vacation she found a gram on her desk detailing the events which had transpired while she was away. Respondent called her into her office to discuss the matter and it was Gurdal's belief that she was being held responsible for the events which had taken place in her absence; that it was her "feeling" that the "sequence of events" was the result of her being a participant in the group grievance. Gurdal was not relieved of the case.

In Item 7, the Union alleges that on or about June 20, 1974, while Gurdal was engaged in conversation with two co-workers, Respondent walked up to her and asked if she was trying to get coverage for jury duty. Gurdal testified that Respondent had rushed from her office and asked one of the workers whether she (Gurdal) was trying to get coverage for herself. Gurdal claimed that she was "upset and intimidated" as the result of the incident and that the sequence of events" was the result of her being a participant in the grievance. Here, again, during the entire incident there was no mention made of the grievance.

In Item 8, the Union alleges that since the first week of June, on approximately five different occasions, Respondent came into the coffee room while Gurdal was talking to

some of her co-workers and sat down at the same table. This, according to the Union and Gurdal, had an "intimidating" effect on her. Respondent, at the Hearing, testified that she made it a practice to meet with new workers at coffee breaks as well as in her office. No evidence was adduced that these meetings were held as the result of the filing of the group grievance or that the grievance was the subject matter at any of the discussions which took place at the coffee breaks.

The final item involving Gurdal pertains to her Performance Evaluation conference on June 15, 1974. (Item 9). Gurdal complains that the rough draft of her evaluation was unsatisfactory because Respondent's comments were "quite brief". During the conference there was reference made to the difficulty in evaluating her, particularly in view of the situation which existed in the unit. Gurdal maintains that there was reference made to the filing of the grievance although Respondent denies this. Respondent rated Gurdal as an "Excellent diagnostic case worker....who worked with difficult natural parents". Respondent's comments on the 1974 evaluation were more detailed than on her 1973 evaluation. Gurdal was "reasonably satisfied" with the final competent rating she received as well as Respondent's written comments. However, Gurdal contends that the difficulty she had in persuading Respondent to expand her comments was the result of her having been a participant in the group grievance, that she shouldn't have had to "literally beg.....to get the kind of thing that I had earned."

In summary, Gurdal contends that action taken by the

Respondent with respect to possible transfer of a case, the handling of another case, discussion with co-workers and the difficulty she experienced in obtaining a satisfactory evaluation were the result of her being a party to the group grievance.

#### Discussion

The Union's Charge alleges that the grievants "....have been subjected to interference, restraint and coercion as the result of filing the grievance." The Union further maintains that the acts of the Respondent in attempting "reprisals" against employees for engaging in such activity is a clear violation of Section 12(a)1 of the Ordinance. In support of its charge, the Union ultimately relied on seventeen specific incidents listed in its Bill of Particulars.

There is no question that the filing of a grievance is a protected activity under the Ordinance. However, there was no evidence submitted that the employees involved were actually restrained or coerced in this activity. As a matter of fact, at least two subsequent grievances were filed by one of the employees involved.

Neither would there be any question that a violation of the Ordinance had occurred if the Union had been able to show that specific acts or a pattern of conduct on the part of the Respondent could be construed as a reprisal against the employees for having filed the group grievance. The Undersigned has carefully reviewed and considered all the evidence submitted by the Union and could find nothing to



support the Union's contention of "reprisals".

In the type of social work here involved, no stereotypical, structured procedural rules could exist which would cover every possible contingency in human relationships - whether they involve problem children, parents or co-workers. Considering these working relationships, it is understandable that the Respondent, coming back after a seven week sick leave, finding her unit demoralized with a high degree of tension, subsequently being confronted with a group grievance, would react and become more cautious in her day-to-day dealings with the four employees involved. However, it is also apparent that the grievants over-reacted, became suspicious of any action taken by the Respondent which was not to their liking, attributed statements, and/or conduct, to their having filed the grievance. After all, the group grievance was the first ever filed against the Respondent and was obviously a traumatic experience for all concerned.

From the record, it appears that the Union believed that all that was necessary to sustain the Charge was to prove that the employees had a "feeling" that certain actions on the part of the Respondent was the result of their having filed a grievance, with this feeling somehow being converted in their minds to "intimidation" or "coercion" and, therefore, a violation of Section 12(a)1 of the Ordinance. Throughout the record there is a continuous reference to the "sequence of events" resulting in a "feeling" on the part of the grievant that he or she was being intimidated. However, just "feeling" something is not proving a fact, and even



were we to assume that the "feeling" was justified there was still no evidence of reprisals as claimed by the Union in its Charge. If anything, the record reveals that the Respondent attempted, in her own way, to be as objective as possible. The Performance Evaluation Ratings submitted into evidence indicated that, in each instance, she gave the employee as good or better a rating as the employee had received from her during the preceding year. In some instances the employee was even referred to as "outstanding" or "excellent" in specific categories. It is also significant that in the vast majority of the incidents relied on by the Union, there was no reference, whatsoever, made to the filing of the grievance. And even had there been, it would not, in itself, have been proof that the resulting action taken by the Respondent was in violation of the Ordinance.

In retrospect, it is unfortunate that highly competent professionals, working in a most difficult area of social work, had permitted such a breakdown in their interpersonal relationships that distrust, suspicion and lack of respect ruled the day.

In summary, the Undersigned finds that there was no evidence of interference, restraint or coercion; no evidence to support the allegations that Respondent attempted reprisals against the grievants; no evidence that there was a violation of Section 12(a)1 of the Ordinance.

#### Recommended Findings of Fact and Conclusions

Having found no evidence to support the allegations in

the Charge, the Hearing Officer recommends that the Commission find that the Respondent did not engage in any unfair employee relations practices within the meaning of Section 12(a)1 of the Ordinance and accordingly recommends that said Charge be dismissed..

Dated this 16th day of December, 1974

Martin Zimmering  
Martin Zimmering,  
Hearing Officer