

COUNTY OF LOS ANGELES
EMPLOYEE RELATIONS COMMISSION

In the Matter of)	
)	
LOS ANGELES COUNTY EMPLOYEES)	
ASSOCIATION, (LACEA), LOCAL 660,)	
SEIU)	
)	
Charging Party)	
)	
v.)	UFC 6.159
)	
DEPARTMENT OF HEALTH SERVICES)	
)	
Respondent)	

INTERIM DECISION AND ORDER

The charge in this case was filed by the LACEA, Local 660, SEIU (Charging Party) against the County of Los Angeles Department of Health Services (County) alleging that certain intimidating and/or threatening statements violative of Section 12(a)(1) of the Employee Relations Ordinance (Ordinance) were made by the Nursing Director of the Women's Hospital.

The matter was duly referred to Hearing Officer Walter R. Norwood, who held a hearing on December 8, 1987. The parties appeared and were afforded full opportunity to offer argument, present relevant evidence, and examine and cross-examine witnesses. Upon the conclusion of the hearing, both parties made oral closing arguments. Hearing Officer Norwood submitted a Report received in the Commission's office on February 18, 1988. The Charging Party thereafter filed Exceptions to this Report which were received on March 17, 1988. No statement in opposition to these Exceptions was submitted.

The Hearing Officer concluded that the County did not violate the Ordinance in implementing and maintaining a staggered shift schedule for nursing personnel assigned to Unit 2L7 of the Women's Hospital. However, as correctly pointed out by the Charging Party in its Exceptions, the instant charge does not involve a dispute as to the propriety of the scheduling policy. Rather, the charge concerns an allegation to the effect that Nursing Director Sheridan Smith made certain intimidating and/or threatening remarks violative of the Ordinance to various nursing employees following their submission of a grievance challenging the scheduling policy in force in Unit 2L7.

Resolution of the underlying charge involves both questions of fact and law. As the record discloses a clear conflict between the testimony of Nursing Director Smith and that proffered by the Union witnesses, resolution of the factual question is predicated on credibility determinations. These determinations initially rest with the Hearing Officer.

Accordingly, we shall remand this matter to the Hearing Officer so that a specific credibility finding may be made with respect to the conflicting testimony of Smith and the Union witnesses as to the statements attributed to Smith by the Charging Party. The Hearing Officer is further instructed to enumerate those facts from the evidence record which influenced his ultimate credibility determination.

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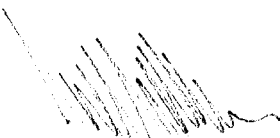
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I N T E R I M O R D E R

IT IS HEREBY ORDERED that charge UFC 6.159 is remanded to the Hearing Officer. The Hearing Officer is directed to prepare and submit a supplemental report consistent with the above instructions.

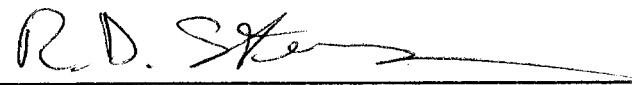
DATED at Los Angeles California, this 13th day of May,
1988.



JOSEPH F. GENTILE, Chairman



PAUL K. DOYLE, Commissioner



ROBERT D. STEINBERG, Commissioner