LOS ANGELES COUNTY

EMPLOYEE RELATIONS COMMISSION

In the Matter of	)	
LOS ANGELES COUNTY EMPLOYEES ASSOCIATION, LOCAL 660, SEIU, AFL-CIO	)	
Charging Party	)	UFC 6.37
vs.	)	
LOS ANGELES COUNTY MECHANICAL DEPARTMENT	)	
Respondent	)	

DECISION AND ORDER

A hearing concerning the captioned matter was held before Hearing Officer Robert G. Meiners on November 17, 1976. (Hearing Officer Meiners had previously been selected by the parties to act as arbitrator in a dispute arising out of the same factual background.) Post hearing briefs were filed by the parties, and the hearing officer subsequently filed his report with the Commission. No exceptions thereto have been filed.

Upon consideration of the report filed by said hearing officer and the complete record on file, the Employee Relations Commission makes the following findings and issues the order hereinafter set forth.

The basic facts giving rise to this charge are not in dispute,

and were stipulated to at the hearing. No purpose would be served in restating them. In the related arbitration award (ARB 20-76) the arbitrator concluded that the department's conduct was "arbitrary and unreasonable," and that the County violated the Memorandum of Understanding "when it refused to pay sick leave benefits and then issued a letter of reprimand to the grievants."

Based on the same facts, the Union (in its brief) further charged that the County's actions constituted an unfair employee relations practice in that:

> "[T]he evidence overwhelmingly demonstrated that the County attempted to interfere with, restrain or coerce employees in the exercise of their rights recognized or granted in the Los Angeles County Employee Relations Ordinance by refusing to pay them sick leave when medical certification for such was provided and for placing a written reprimand in their personnel file. In addition thereto, by unilaterally changing working conditions and pay practices without first negotiating with the representatives of Los Angeles County Employees Association, Local 660, SEIU, AFL-CIO, the County engaged in an unfair labor practice within the meaning of Section 12(a)(3) of the Employee Relations Ordinance."

Hearing Officer Meiners made the following recommended finding on the issue of the alleged "unfair employee relations practice" charge:

> "A preponderance of the evidence, considered as a whole, leads the undersigned to the conclusion that the County did not commit unfair employee relations practices . . . in this case."

Since the Union filed no exceptions to this recommended finding of Hearing Officer Meiners, perhaps no further discussion is required from the Commission in adopting his recommendations. In the

interest, however, of clarifying the Commission's approach to disputes of this nature, a few additional comments appear appropriate.

The record reflects, as stated by Hearing Officer Meiners, that Article 9 of the MOU, "Employee Benefits," and Appendix A of the Agreement on Fringe Benefits, "Sick Leave," deal with sick leave benefits. Appendix A states, among other provisions, that paid sick leave is "subject to proof required dy departmental management." Section 250, "Proof of Absence," of the Salary Ordinance provides:

> "Any employee absent due to sickness, injury, pregnancy, quarantine, non-emergency medical or dental care, or on any of the leaves provided for in Section 240 may be required, before such absence is authorized or payment is made, to furnish a doctor's certificate or other proof satisfactory to his department head that his absence was due to such causes." (Emphasis added.)

The Commission, after a review of the record, finds no fault with the conclusion of Hearing Officer Meiners that the department's action in denying sick leave benefits without consideration of the proffered physicians' certificates and then issuing letters of reprimand was "arbitrary and unreasonable." But although the department acted unreasonably in making a decision as to the legitimacy of the employees' illnesses, it did not change working conditions. Rather, it interpreted those conditions in an unreasonable manner. The sick leave rule as spelled out in the Salary Ordinance remained the rule of the department.

The fact that a course of conduct may be found to violate a negotiated agreement does not alone support an allegation that an unfair practice has occurred; every contract violation is not ne-

cessarily an unfair employee relations practice. Similarly, an employee or a group of employees may have a legitimate grievance regarding denial of certain rights or benefits from an MOU, but denial of those rights or benefits does not necessarily constitute a denial of rights guaranteed by the Employee Relations Ordinance. The record of the hearing in this matter does not demonstrate an unfair employee relations practice as defined in the Ordinance.

Accordingly, the Commission adopts the hearing officer's conclusion that the respondent did not engage in unfair employee relations practices within the meaning of Section 12(a)(1) and (3) of the Employee Relations Ordinance as charged, and hereby orders the unfair employee relations practice charge designated UFC 6.37 dismissed.

Dated: October 20, 1977.

David Ziskind, Chairman

Lloyd H. Bailer, Commissioner

William Levin, Commissioner