

LOS ANGELES COUNTY
EMPLOYEE RELATIONS COMMISSION

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| In the Matter of |) | |
| |) | |
| JOHN D. BACA, |) | |
| Charging Party |) | UFC 70.110 |
| |) | |
| |) | DECISION AND ORDER |
| v. |) | |
| |) | |
| LOS ANGELES COUNTY |) | |
| DEPARTMENT OF HEALTH |) | |
| SERVICES, |) | |
| Respondent |) | |
| _____ |) | |

The essential facts of this case are not in dispute. Petitioner John D. Baca filed a grievance on or about April 3, 1996 with his immediate supervisor, Hugo Almeida, contesting an involuntary transfer to a new work location. Mr. Almeida allegedly returned the grievance form to Mr. Baca, indicating that he (Mr. Baca) should pursue his grievance elsewhere. It should be noted that Charging Party Baca is a non-represented management employee, and filed this grievance under the Department of Health Services written grievance procedure for non-represented employees.

John D. Baca thereupon filed the instant Charge with the Commission on May 22, 1996, claiming that his supervisor's refusal to process his grievance constituted a violation of Section 12 (a)(1) and Section 4 of the Employee Relations Ordinance. At its regular meeting of September 19, 1996, the Commission granted a hearing in this matter and appointed Anthony V. Nizetich hearing officer. Hearings were conducted on November 8, and November 26, 1997. The parties appeared and were afforded full and complete opportunity to present relevant evidence, offer argument, and examine and cross-examine witnesses. Hearing officer Nizetich filed his Report and Recommendations with us on January 10, 1997, and after a preliminary review of the hearing officer's Report, we ordered transcripts in accordance with Rule 6.11(a).

Discussion

Notwithstanding hearing officer Nizetich's Report, the issue before this Commission is both a narrow and straightforward one; whether the Department of Health Services violated the Ordinance when Charging Party Baca's immediate supervisor refused to process his grievance.

This was correctly pointed out by counsel for the Respondent in his Supplemental Hearing Brief, and was the essence of the Charge filed with us, and is the requirement of our Rules. In particular, Rule 6.02(c) requires that the Charging Party provide:

“C. A clear and concise statement of the acts constituting the charge and of the sections (including subsections) of the Ordinance or Rules and Regulations alleged to have been violated.”

Charging Party Baca is clearly an employee of the County of Los Angeles and as such is entitled to the protections of Section 4 of the Ordinance:

*“Employees of the County shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employee relations. Employees of the County shall also have the right to refuse to join or participate in the activities of employee organizations **and shall have the right to represent themselves individually in their employment relations** with the County. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against because of his exercise of these rights.”* Emphasis added¹

At the same time, it must be noted that Mr. Baca is a non-represented employee and this fact has certain implications in terms of the Respondent’s labor relations schema. For example, the Departmental grievance procedure for non-represented employees does not end in arbitration, as do grievance procedures for employees represented by employee organizations in traditional bargaining units. Rather the Respondent’s process terminates with an appeal to the Director of Personnel. Thus this Commission has no ultimate role in the disposition of the merits of Charging Party’s claim.

For these reasons, as well as effectuating the purposes of the Ordinance, we are reluctant to address the merits of Charging Party’s grievance. Those issues are not properly before us. As to the issue of whether or not Mr. Baca’s immediate supervisor denied his attempt to file and process a grievance, the record is clear that the grievance was returned to Mr. Baca without being processed. It is unnecessary for us to go beyond that sequence of events. We therefor reverse hearing officer Nizetich and enter the following Order:

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¹ The Ordinance language parallels that of the Meyers-Milias Brown Act, Government Code Section 3506.

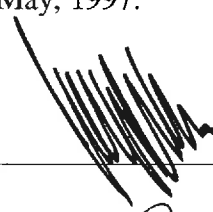
ORDER

IT IS HEREBY ORDERED that the hearing officer's Report in UFC 70.110 is overruled, and we find as follows:

1) The Charge that the Respondent Department of Health Services violated Sections 4 and 12 (a)(1) of the Ordinance in refusing to process John D. Baca's grievance is sustained.

2) The Department of Health Services is therefor directed to allow John D. Baca to file and process his grievance.

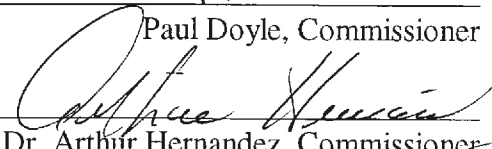
DATED at Los Angeles, California, this 30th day of May, 1997.



Joseph Gentile, Chair



Paul Doyle, Commissioner



Dr. Arthur Hernandez, Commissioner