

LOS ANGELES COUNTY
EMPLOYEE RELATIONS COMMISSION

In the Matter of
NADINE McKINNOR

Charging Party

v.

ALFRED MOSLEY, LACEA, LOCAL 660,
SEIU

Respondent

UFC 70.21

DECISION AND ORDER

The Charge in this case was filed by Nadine McKinnor (Charging Party) against Alfred Mosley, Field Representative for SEIU, Local 660 (Respondent), alleging a violation of Section 4 of the Employee Relations Ordinance (Ordinance) and Rule 6.01 of the Commission's Rules and Regulations (Rules). The Charging Party contends that the Respondent had violated those provisions by his actions at several Union meetings and by his encouragement of Management in its decision to discharge her.

The matter was duly referred to Hearing Officer Edna E. J. Francis who held a hearing on January 29, 1981. At the hearing, counsel for the Respondent moved to dismiss

the charge. The Charging Party was afforded opportunity to introduce argument and evidence in opposition to the Respondent's motion. After taking the matter under submission, Hearing Officer Francis granted the Respondent's Motion to Dismiss and adjourned the hearing. The Hearing Officer submitted her Report dated April 3, 1981. No Exceptions to the Report were filed.

After careful review of the Hearing Officer's Report and the underlying record, the Commission adopts the findings, conclusions, and recommendations of Hearing Officer Francis.

The Commission particularly notes for purposes of emphasis the following reasoning of the Hearing Officer:

"It is clear from a reading of the above-quoted provisions of the Commission's Rules and of the Employee Relations Ordinance that the provisions are incongruous with the allegations made in support of the charges. Section [sic] 4 of the Ordinance simply states the rights of employees. Section 6.01 of the Commission's Rules sets forth time-filing requirements for unfair practice charges. It is Section 12 of the Ordinance which identifies unfair practices proscribed by the Ordinance. Upon examination of Section 12 of the Ordinance, I have found nothing in either Section 4 of the Ordinance or in Section 6.01 of the Commission's Rule which could serve as the authority upon which this unfair practice charge is grounded. Consequently, I find that the instant unfair charge, even if its supporting allegations are deemed true, should be dismissed for failure to state a proper cause of action under either the Ordinance or the Commission's Rules." (Report of Hearing Officer, p. 5.)

Hearing Officer Francis further concluded that the Charge was untimely filed under the provisions of Rule 6.01. She found that the "Charging Party has failed to explain why the charge was filed outside the 180-day time frame of Section 6.01. Charging Party did not present evidence that she learned of the alleged facts giving rise to the charge at a much later time than they allegedly occurred, thereby starting the running of the 180-day period from a later date than January 1980 . . . or March 6, 1980" (Ibid., p. 6.) The Hearing Officer rejected the Charging Party's contention that the instant Charge was timely filed because it was identical to the charge which she had filed with the Commission on August 7, 1980. In reaching this conclusion, the Hearing Officer stated, ". . . there is nothing in the documentation presented by Charging Party which supports her position that the instant charge was initially filed on August 7, 1980. . . . the charge she filed on August 7, 1980 involved parties and allegations entirely distinct from the parties and allegations involved in the instant charge." (Ibid.)

/

/

/

/

O R D E R

IT IS HEREBY ORDERED that the Charge as filed by
Nadine McKinnor on September 5, 1980, be dismissed.

DATED at Los Angeles, California, this 10th day of
July, 1981.

Lloyd H. Bailer
LLOYD H. BAILER, Chairman


JOSEPH P. GENTILE, Commissioner


FREDRIC N. RICHMAN, Commissioner

W