

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1877,

Charging Party,

v.

OAKLAND HOUSING AUTHORITY,

Respondent.

Case No. SF-CE-231-M

PERB Decision No. 1753-M

February 16, 2005

Appearances: Weinberg, Roger & Rosenfeld by Stewart Weinberg, Attorney, for Service Employees International Union, Local 1877; The Stevens Law Firm by Cheryl A. Stevens, Attorney, for Oakland Housing Authority.

Before Duncan, Chairman; Whitehead and Shek, Members.

DECISION

SHEK, Member: This case is before the Public Employment Relations Board (PERB or Board) on appeal by the Service Employees International Union, Local 1877 (SEIU) of a Board agent's dismissal of its unfair practice charge. The unfair practice charge alleged that the Oakland Housing Authority (Authority) violated the Meyers-Milias-Brown Act (MMBA)¹ by refusing to meet and confer over the effects of the Authority's decision to hire "project employees."

The Board has reviewed the entire record in this matter, including the original unfair practice charge, the warning and dismissal letters, SEIU's appeal and the Authority's response. Based on the discussion below, the Board affirms the dismissal of the unfair practice charge.

¹The MMBA is codified at Government Code section 3500, et seq.

DISCUSSION

This case is factually identical to Oakland Housing Authority (2005) PERB Decision No. 1739-M (Oakland Housing Authority), which was recently issued by the Board. Relevant to this discussion, the Authority employs two types of employees: regular and project. Regular employees, presumably, are all members of the bargaining unit represented by SEIU. Pursuant to long-established practice, project employees are required to join SEIU and pay dues. Thus, it appears that both types of employees are contained within the bargaining unit represented by SEIU.

In Oakland Housing Authority, the Building Trades Council alleged that the Authority violated the collective bargaining agreement (CBA) by assigning work to project employees that should have been assigned to regular employees. Finding no violation of the CBA, the Board dismissed the unfair practice charge. In the current case, SEIU alleges that the Authority refused to negotiate over the effects of the decision to hire project employees, as opposed to the decision itself.

The Board has held that even where a decision is non-negotiable, an employer is still obligated to negotiate over the effects of the decision that are within the scope of representation. (City of Richmond (2004) PERB Decision No. 1720-M; Newman-Crows Landing Unified School District (1982) PERB Decision No. 223.) In its charge, SEIU alleges that the effect of the Authority's actions is that, "project workers are depriving members of the bargaining unit of legitimate job and work opportunities." However, as noted above, the record appears to indicate that project workers are within SEIU's bargaining unit. Even if they are not, SEIU's statement does not identify a negotiable effect. Rather, it is just another way to

demand negotiations over the decision itself. Accordingly, the charge fails to state a prima facie case and must be dismissed.

ORDER

The unfair practice charge in Case No. SF-CE-231-M is hereby DISMISSED WITHOUT LEAVE TO AMEND.

Chairman Duncan and Member Whitehead joined in this Decision.