

District nine days late.¹ It was dismissed by the Executive Assistant as untimely on April 19, 1979. Charging party then sought to appeal the Executive Assistant's decision. His appeal was due on April 30, 1979; it was received by PERB on May 3, 1979, and dismissed as untimely.² Charging party thereupon timely filed the appeal now before the Board.

PERB rule 32133 states:

A late filing may be excused in the discretion of the Board only under extraordinary circumstances.

In Anaheim Union High School District (7/17/78) PERB Order No. Ad-42, the Board defined "extraordinary circumstances" as "out of the ordinary, remarkable, unpredictable situations or occurrences for exceeding the usual which prevent a timely filing."

Charging party did not present any extraordinary circumstances to justify his late filing. The Board therefore affirms the dismissal of his May 3 appeal.

¹PERB rule 32630(b)(2) allows a party twenty calendar days following the date of service of the dismissal to file an appeal of that dismissal with the Board itself. The hearing officer's dismissal was served on March 20, 1979, so Charging party's appeal was due on April 9, 1979. The appeal was filed on April 18, 1979.

PERB rules are codified at California Administrative Code, title 8, section 31000 et seq.

²PERB rule 32360(b) provides:

The appeal shall be "filed" with the Executive Assistant to the Board at the headquarters office within 10 calendar days following the date of service of the decision or letter of determination.

ORDER

The Public Employment Relations Board ORDERS that the Executive Assistant's decision to dismiss as untimely the appeal filed by Ante Milat on May 3, 1979, is affirmed.

By: ~~Raymond J. González, Member~~

~~Harry Gluck, Chairperson~~

~~Barbara D. Moore, Member~~

PROOF OF SERVICE BY MAIL
C.C.P. 1013a

I declare that I am employed in the County of Sacramento, California.
I am over the age of eighteen years and not a party to the within
entitled cause; my business address is 923 - 12th Street, Suite 201,
Sacramento, California 95814.

On April 19, 1979, I served the attached letter regarding

NOTICE OF DISMISSAL WITHOUT LEAVE TO AMEND: CASE NO. SF-CO-75 78-79

on the parties to the case by placing a true copy thereof enclosed
in a sealed envelope with postage thereon fully prepaid, in the
United States Mail at Sacramento, California addressed as follows:

Madalyn J. Frazzini
Box 640
San Jose, CA 95106

California School Employees Association
Cesar T. Batungbacal
333 Hegenberger Road, Suite 206-E
Oakland, CA 94621

R. V. Godino
4 Beach Drive
San Rafael, CA 94901

Ante Milat
3112 Madeline Street
Oakland, CA 94602

Joanne S. Duncan
Assistant Superintendent
Alameda USD
400 Grand St.
Alameda, CA 94501

California School Employees Association
Chapter 663
1305 Weber Street
Alameda, CA 94501

I declare under penalty of perjury that the foregoing is true and correct,
and that this declaration was executed on April 19, 1979
at Sacramento, California.

Jacqueline Diegle
(Type or print name)

(Signature)