

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



WILLIE L. LEWIS,)	
)	
Charging Party,)	Case No. LA-CO-167
APPELLANT,)	
)	PERB Order No. Ad-118
v.)	
)	Administrative Appeal
LOS ANGELES CITY & COUNTY SCHOOL)	
EMPLOYEES UNION, Local 99, SEIU,)	November 25, 1981
AFL-CIO,)	
)	
Respondent.)	
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Appearances: Richard A. Cherry, Attorney for Willie Lewis.
Before Gluck, Chairperson; Jaeger, Moore and Tovar, Members.

DECISION

This case is before the Public Employment Relations Board (hereafter PERB or Board) on an appeal by the charging party to the determination by the executive assistant to the Board that the appeal of the dismissal of the unfair practice charge was untimely filed. We find that the appellant has not demonstrated the existence of extraordinary circumstances which would justify the late filing as required by PERB rule 32133.1

¹PERB Rules are codified at California Administrative Code, title 8, section 31000 et seq. Section 32133 provides:

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

Mr. Lewis was clearly informed of the 20-day time limit, and ultimately obtained a lawyer to assist him with the appeal. Nothing in the record indicates why he could not have done this within 20 days of the hearing officer's refusal to issue a complaint.

ORDER

The Board affirms the determination of the executive assistant to the Board and DENIES the appeal. Accordingly, the dismissal of the unfair practice charge stands and no complaint shall issue.

PER CURIAM

Irene Tovar, Member, concurring:

The current rules and regulations of the Public Employment Relations Board compel the decision we reach today in the instant matter. To my mind, however, the effect of our decision is to underscore the inadequacy of those rules as they attempt to prescribe fair and appropriate regulation on the subject of timely filing. The instant case is only the latest of several dealing with the problem of late filing which have come before this Board over the past year. In each such instance I have been concerned by the harshness of the result which stems from the application of our current rules on the subject. I am especially troubled by the instant case, in which the underlying charge appears to raise very serious allegations concerning the exclusive representative's breach of its duty of fair representation (Indeed, the record suggests that the exclusive representative may itself have been largely responsible for the delay which resulted in the untimely filing in this case; had the record contained sufficient evidence to substantiate this suggestion, I would have favored a finding of "extraordinary circumstances" pursuant to section 32133 of our rules and regulations). Where a system of labor relations provides, as does ours, for the recognition of a single employee representative to the exclusion of all others, it is paramount that the exclusive representative be held to the strictest standard of good faith representation.

In my view, review and rule-change regarding our rules for timely filings are in order. Moreover, I feel that it behooves this board to reconsider its past approach to the application of our "extraordinary circumstances" rule 32133.

~~Irene Tovar, Member~~