

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



VINCENT DARRYL WOODS,)
)
 Charging Party,) Case No. LA-CE-2908
)
 v.) PERB Order No. Ad-228
)
 LOS ANGELES UNIFIED SCHOOL DISTRICT,) January 7, 1992
)
 Respondent.)
 _____)

Appearances: Vincent Darryl Woods, on his own behalf;
Rochelle J. Montgomery, Staff Counsel, for Los Angeles Unified
School District.

Before Hesse, Chairperson; Camilli and Carlyle, Members.

DECISION

CARLYLE, Member: This case is before the Public Employment Relations Board (PERB or Board) on appeal by Vincent Darryl Woods (Woods) of the PERB appeals assistant's rejection of his exceptions to the proposed decision of a PERB administrative law judge (ALJ) on the grounds that the appeal was not timely filed. Woods claims that the appeal was filed late because of his disability and poor health. For the reasons set forth below, we deny Woods' appeal.

Woods filed an unfair practice charge against the Los Angeles Unified School District (District). After a hearing, the original proposed decision dismissed the complaint, which alleged the District unlawfully discriminated and retaliated against Woods in violation of section 3543.5(a) of the

Educational Employment Relations Act (EERA).¹ In Los Angeles Unified School District (1991) PERB Decision No. 874, the Board remanded the case for further hearing. Pursuant to the Board's decision, the hearing was reopened for further testimony. The ALJ, in the proposed decision at issue herein, once again concluded that the evidence failed to establish a prima facie case of a violation of EERA section 3543.5(a) and, therefore, dismissed the complaint.

The ALJ issued his decision on September 30, 1991.² Pursuant to PERB Regulation 32300,³ Woods had 20 days following

¹EERA is codified at Government Code section 3540 et seq. Section 3543.5 states, in pertinent part:

It shall be unlawful for a public school employer to do any of the following:

(a) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter. For purposes of this subdivision, "employee" includes an applicant for employment or reemployment.

²Unless otherwise stated, all dates refer to 1991.

³PERB Regulations are codified at California Code of Regulations, title 8, section 31001 et seq. Regulation 32300 states, in pertinent part:

A party may file with the Board itself an original and five copies of a statement of exceptions to a Board agent's proposed decision issued pursuant to section 32215, and supporting brief, within 20 days following the date of service of the decision or as provided in section 32310. The statement of exceptions and briefs shall be filed with the Board itself in the headquarters office. Service and proof of

the date of service of the decision to file his exceptions. Woods' exceptions were due to be filed with the Board no later than October 25. Woods sent his exceptions by regular mail, with a postmark of October 28. The exceptions were received at PERB's headquarters office on November 4. Additionally, no proof of service accompanied the exceptions.

Woods' appeal states that, due to his disability and poor health, his exceptions were filed "only a few days after the due date." Pursuant to PERB Regulation 32136,⁴ the Board may excuse a late filing for good cause only. The Board has held that a late filing without adequate explanation does not constitute good cause. (Los Angeles Community College District (1991) PERB Decision No. 908, p. 7; Ventura Unified School District (1989) PERB Decision No. 757.) Woods did not provide any documentation regarding the nature of his disability or health concerns, nor did he request an extension of time. Further, Woods has previously been before this Board and has been made aware of PERB's regulations concerning the filing of exceptions. (Los Angeles Unified School District, *supra*, PERB Decision No. 908.) This failure to comply with PERB's regulations renders Woods' appeal fatally defective.

service of the statement and brief pursuant to section 32140 are required. . . .

⁴PERB Regulation 32136 provides:

A late filing may be excused in the discretion of the Board for good cause only. A late filing which has been excused becomes a timely filing under these regulations.

ORDER

Woods' appeal of the appeals assistant's rejection of its untimely filed exceptions is hereby DENIED.

Chairperson Hesse and Member Camilli joined in this Decision.