

**STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION**

In the Matter of:
DETROIT PUBLIC SCHOOLS,
Respondent–Public Employer in Case No. C05 H-181,

- and -

DETROIT ASSOCIATION OF EDUCATIONAL OFFICE
EMPLOYEES, LOCAL 4168,
Charging Party-Labor Organization in Case No. CU05 H-035,

-and-

MEARLIE L. PALMORE,
An Individual Charging Party.

APPEARANCES:

Gordon Anderson, for the Public Employer

Ruby J. Newbold, for the Labor Organization

Mearlie L. Palmore, *in Propria Persona*

DECISION AND ORDER

On January 11, 2006, Administrative Law Judge Roy L. Roulhac issued his Decision and Recommended Order in the above matter finding that Respondent did not violate Section 10 of the Public Employment Relations Act, 1965 PA 379, as amended, and recommending that the Commission dismiss the charges and complaint.

The Decision and Recommended Order of the Administrative Law Judge was served on the interested parties in accord with Section 16 of the Act.

The parties have had an opportunity to review the Decision and Recommended Order for a period of at least 20 days from the date of service and no exceptions have been filed by any of the parties.

ORDER

Pursuant to Section 16 of the Act, the Commission adopts the recommended order of the Administrative Law Judge as its final order.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Nora Lynch, Commission Chairman

Nino E. Green, Commission Member

Eugene Lumberg, Commission Member

Dated: _____

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Mearlie L. Palmore, *in propria persona*

DECISION AND RECOMMENDED ORDER
OF ADMINISTRATIVE LAW JUDGE

This case was heard in Detroit, Michigan, on December 12, 2005, by Administrative Law Judge Roy L. Roulhac for the Michigan Employment Relations Commission (MERC) pursuant to Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210 and 423.216.

On August 22, 2005, Charging Party filed unfair labor practice charges against Respondents Detroit Public Schools and the Detroit Association of Educational and Office Employees, Local 4168. The charges read:

I have been a displaced Clerical Level 11 Secretary since May 2001. Since that time I have written letters to my union, I have also made several phone calls to Local 4168. I have requested a (12) month position with the Board of Education since I was displaced in May 2001. Somehow I feel as tho[sic] my request has been ignored or for that matter has been disregarded at present I am a (10) month employees, my seniority 3/10/78 should render me a (12) month position with the Board of Education

unless maybe, just maybe the Board of Education does not abide by seniority. Since I have been removed from my (12) month position to a (10) month position it has created great financial problems for me and also stress to my health. Please be advised I do consider this request to be of great importance to me. I would certainly feel relieved to know that my request has been dealt with in the proper manner.

During the hearing, Charging Party was directed to show cause why her charge should not be dismissed as untimely since it was filed more than four years after she was displaced from her twelve-month position. According to Charging Party, she “didn’t know there was a time frame of six months to file this type of complaint against the Union or the Board.”

I find that Charging Party’s lack of knowledge of the statute of limitations is insufficient to toll the limitation period. Section 16(a) of PERA, MCL 423.216(a), requires that an unfair labor practice charge be filed within six months of an alleged violation.¹ The statute of limitations is jurisdictional and cannot be waived. *Walkerville Rural Communities Schs*, 1994 MERC Lab Op 582. Therefore, the charges must be dismissed as untimely. I recommend that the Commission issue the order set forth below.

RECOMMENDED ORDER

The unfair labor practice charges are dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Roy L. Roulhac
Administrative Law Judge

Dated: _____

¹Section 16(a) of PERA reads: No complains shall issue based upon any unfair labor practice occurring more than 6 months prior to the filing of the charge with the commission and the service of a copy thereof upon the person against whom the charge is made, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the armed forces, in which event the 6-month period shall be computed from the day of his discharge.