

85-038

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

The Springfield Board of Parks Trustees,

and

City of Springfield,

Employer,

and

American Federation State, County and Municipal Employees,  
Local 1608, Parks Chapter and Ohio Council 8, AFL/CIO,

Employee Organization.

CASE NUMBER: 85-MP-04-3351  
85-MP-04-3352

OPINION AND ORDER

Before Vice Chairman Sheehan and Board Member Fix, August 8, 1985

Sheehan, Vice Chairman:

This case arises as a result of collective bargaining negotiations between the City of Springfield and The Springfield Board of Parks Trustees (Employer) and American Federation of State, County and Municipal Employees, Local 1608 and Ohio Council 8, AFL/CIO (Employee Organization). On June 25, 1985, the Board appointed a fact-finder who submitted his report on July 27, 1985, after the parties had agreed to extend the time period for fact-finding in accordance with Ohio Revised Code Section 4117.14(C)(5). On August 1, 1985, the Employee Organization voted to accept the fact-finder's recommendation. On August 3, 1985, the Springfield City Commission voted by a three-fifths majority to reject the fact-finder's recommendation. As required by Ohio Revised Code Section 4117.14(C)(6), the Board publicized the fact-finding report on August 5, 1985. The Employee Organization, having given a Notice of Intent to Strike dated July 26, 1985, commenced a strike the morning of August 7, 1985. At 9:10 a.m. on August 7, 1985, the Employer filed with the Board a Request For Determination of Unauthorized Strike pursuant to Ohio Revised Code Section 4117.23.

In order to fulfill the time limits imposed by Ohio Revised Code Section 4117.23, the Board on August 7, 1985, held an emergency session at which counsel for the parties presented their positions. The Board continued the emergency session on August 8, 1985, and received evidence and testimony from the parties.

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The Employer contends that the strike is not authorized because seven days have not elapsed since the Board's August 5, 1985, publication of the fact-finder's report. In response, the Employee Organization argues that the strike is permissible because the collective bargaining agreement has expired. The Employee Organization also argues in its written response that "publication" of the fact-finder's report for purposes of Ohio Revised Code Section 4117.14(D) occurred when the fact-finder issued his report, rather than when the Board publicized the report on August 5, 1985.

The Board has carefully considered the arguments and evidence and concludes that the statutory requirements are clear. The impasse resolution procedures of Ohio Revised Code Section 4117.14 prescribe an orderly series of steps designed to enhance the possibility of settlement at each juncture. Only after these steps have been followed does the extraordinary action of striking become an available means of promoting settlement. However, the Employee Organization argues that expiration of the collective bargaining agreement justifies the strike, even though the post-publication seven-day period has not elapsed. The purpose and language of the statutory procedure compel rejection of this argument.

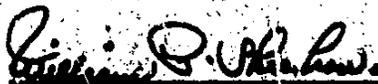
Ohio Revised Code Sections 4117.14(D) and (D)(2) provide that the right to strike arises only "[i]f the parties are unable to reach agreement within seven days after the publication of findings and recommendations from the fact-finding panel or the collective bargaining agreement, if one exists, has expired." The reference to expiration of the bargaining agreement must be considered in the context of the step-by-step statutory scheme for resolution of bargaining disputes. A strike prior to completion of these procedures defeats the purpose of the statutory scheme.

The Employee Organization's contention that "publication" occurred when the fact-finder issued his report is contrary to the clear statutory language. Ohio Revised Code Section 4117.14(C)(6) provides that, after rejection, "the Board shall publicize the findings of fact and recommendations of the fact-finding panel" (emphasis added). Thus, the post-publication waiting period referred to in Ohio Revised Code Section 4117.14(D) relates to seven days after the Board publicizes the report, and does not relate to the fact-finder's issuance of the report.

For these reasons, the Board rejects the Employee Organization's arguments and determines pursuant to the authority of Ohio Revised Code Section 4117.23 that the strike is unauthorized under Ohio Revised Code Section 4117.14(D).

It is so ordered.

SHEEHAN, Vice Chairman; and FIX, Board Member, concur.



WILLIAM P. SHEEHAN, VICE CHAIRMAN

I certify that this document was filed and a copy served upon each party on  
this 9<sup>th</sup> day of August, 1985.

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KENNETH W. BARRETT, EXECUTIVE DIRECTOR