

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

95-055

In the Matter of

State Employment Relations Board,
Complainant,

v.

The City of Ravenna,
Respondent.

CASE NUMBER: 84-UR-05-0946

ORDER
(Opinion Attached)

Before Chairman Day, Vice Chairman Sheehan, and Board Member Fix; October 10, 1985.

On May 2, 1984, Ohio Council 8, American Federation of State, County and Municipal Employees, AFL/CIO and Local 379 (AFSCME) filed an unfair labor practice charge against the City of Ravenna (Respondent). Pursuant to Ohio Revised Code Section 4117.12, the Board conducted an investigation of the charge and found probable cause to believe that an unfair labor practice was committed. Subsequently, a complaint was issued alleging that the Respondent had violated Ohio Revised Code Section 4117.11(A)(1), (5), and (6) by: refusing to bargain with AFSCME, the exclusive representative of employees in the relevant unit; refusing to provide AFSCME with information to enable it to prepare for negotiations; and refusing to take action on grievances submitted by AFSCME. The matter was heard by a Board hearing officer.

The Board has reviewed the record, the hearing officer's recommendation, exceptions to the recommendation, and responses. For the reasons set forth in the attached Opinion, incorporated by reference, the Board approves the hearing officer's findings of fact, approves the conclusions of law except for conclusion #4 regarding the processing of grievances, and orders the Respondent to:

A. Cease and desist from:

Interfering with, restraining or coercing employees in the exercise of the rights guaranteed in Chapter 4117, or refusing to bargain collectively with the employees' representative, and otherwise violating Ohio Revised Code Section 4117.11(A)(1) and (5).

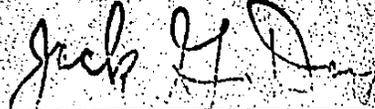
B. Take the following affirmative action:

Post for 60 days in all City of Ravenna offices the Notice to Employees furnished by the Board stating that the Respondent shall cease and desist from the action set forth in Paragraph (A) and shall take the affirmative action set forth in Paragraphs (B) and (C).

C. Engage in collective bargaining negotiations pursuant to Chapter 4117 of the Ohio Revised Code, including the processing of grievances.

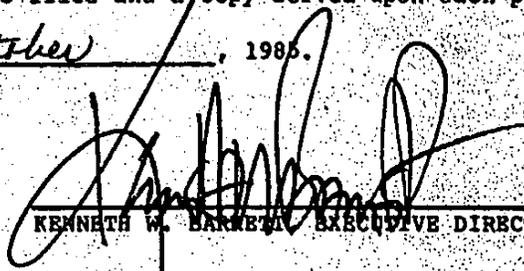
It is so ordered.

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



JACK G. DAY, CHAIRMAN

I certify that this document was filed and a copy served upon each party on this 18th day of October, 1985.



KENNETH W. BARNETT, EXECUTIVE DIRECTOR

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OPINION

Fix, Board Member:

In the instant case, the State Employment Relations Board (SERB) concurs in the conclusions of law with the exception of Conclusion of Law 4.

"4. The Employer's refusal to process grievances was justified since the grievance procedure was part of the invalid collective bargaining agreement."

This opinion will be limited to this aspect of the case.

I

Pursuant to O.R.C. 4117.05 Uncodified Section 4(A), 4117.05(B), the American Federation of State, County and Municipal Employees (AFSCME) is recognized as the exclusive representative for the service department employees of the City of Ravenna.

The contract executed by Mayor Mendiola is not valid because the provisions of the City Charter pertaining to contracts were disregarded. However, the invalidity of the contract does not alter the recognition status of AFSCME.

(MORE)

The hearing officer concluded that the invalidity of the contract obviated any obligation on the part of the employer to process grievances.

The Board reaches a different conclusion.

II

While National Labor Relations Board (NLRB) decisions are not controlling, they nevertheless are pertinent since many sections of O.R.C. 4117 are similar to provisions of the National Labor Relations Act (NLRA).

NLRB ruled in numerous cases that refusal to discuss grievances with the employees' bargaining agent, even where there is no contract or contractual grievance procedure, violates the refusal to bargain section of the NLRA. An example is found in Southwest Janitorial and Maintenance Corporation 205 NLRB 1061, 1070-1071 (1973).

Pursuant to O.R.C. 4117 4(A) and 4117.05(B), since AFSCME is the recognized exclusive representative, the City of Ravenna's refusal to process grievances is a refusal to bargain under O.R.C. 4117.11(A)(5) and (6).

Day, Chairman, and Sheehan, Vice Chairman, concur.

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