

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

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In the Matter of
State Employment Relations Board,

SERB OPINION 88-020

Complainant,

v.

City of Cleveland and Howard Rudolph, Chief of Police,

Respondent.

CASE NUMBER: 87-ULP-05-0209

ORDER

(Opinion Attached.)

Before Chairman Sheehan and Board Member Latané; November 10, 1988.

On May 12, 1987, the Cleveland Police Patrolmen's Association (Charging Party) filed an unfair labor practice charge against the City of Cleveland and Howard Rudolph, Chief of Police, (Respondent). Pursuant to Ohio Revised Code (O.R.C.) §4117.12, the Board conducted an investigation and found probable cause to believe that an unfair labor practice had been committed. Subsequently, a complaint was issued alleging that the Respondent attempted to question a representative of the Charging Party regarding matters within the scope of his representation of a bargaining unit member.

The case was heard by a Board hearing officer. The Board has reviewed the record, the hearing officer's proposed order and the exceptions.

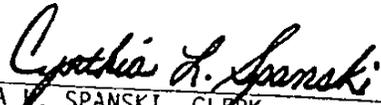
The Board adopts the Admissions, Findings of Fact, Conclusions of Law and Recommendations. The attached opinion is incorporated by reference. The unfair labor practice charge and the complaint are dismissed.

It is so ordered.

SHEEHAN, Chairman, and LATANE, Board Member, concur. DAVIS, Vice Chairman, absent.


WILLIAM P. SHEEHAN, CHAIRMAN

I certify that this document was filed and a copy served upon each party on this 28th day of December, 1988.


CYNTHIA A. SPANSKI, CLERK

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STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

SERB OPINION 88-020

In the Matter of
State Employment Relations Board,
Employee Organization,

and

City of Cleveland and Howard Rudolph, Chief of Police,
Employer.

CASE NUMBER: 87-ULP-05-0209

OPINION

Sheehan, Chairman:

The facts surrounding this case involve an employer who ordered a union representative to his office then proceeded to query him regarding an employee for whom the representative had assisted on a union matter.

While the Board adopts the hearing officer's Conclusions of Law that no violation of O.R.C. Chapter 4117 had occurred in this case, a word of caution is warranted.

When an employee is performing in the capacity of a union representative, the employee enjoys equal status with the employer or the employer representative even though the employer or the employer representative in the normal course of work activity is the employee's supervisor. The superior/inferior rankings cannot and do not exist in the theatre of collective bargaining. The peerage of the principals in this setting is absolute. It can suffer no abridgement.

In the instant case, the ordering of a union representative to a meeting and the subsequent questioning that occurred is clearly abhorrent to the equality principle. The employee representative was sufficiently sophisticated, however, in his rights and in the capacity in which he was performing to inform his interrogator that he declined to answer on advice of counsel. The employer representative, to his credit, did not pursue the questioning after being so informed. Thus, no harm was done.

Nevertheless, it should be made clear that the Board will vigorously protect the right of employee representatives in the performance of their legal obligations. Any attempt to "chill" this right, and any provocations or harassment of employee representatives in the pursuit of their duties will not be tolerated.

LATANE, Board Member, concurs. DAVIS, Vice Chairman, absent.