

STATE OF NEVADA  
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT  
RELATIONS BOARD

HEATH BARNES

Complainant,

vs.

CLARK COUNTY and SERVICE  
EMPLOYEES INTERNATIONAL UNION,  
LOCAL 1107,

Respondents.

ITEM NO. 711

CASE NO. A1-045962

**ORDER**

For Complainant: Heath Barnes, and his attorney Adam Levine, Esq.

For Respondents: Clark County, and their attorney Yolanda T. Givens, Esq. and  
Service Employees International Union, Local 1107, and their attorney  
Douglas V. Ritchie, Esq.

On the 28th day of October, 2009, this matter came on before the State of Nevada, Local Government Employee-Management Relations Board ("Board"), for consideration and decision pursuant to the provisions of NRS and NAC chapters 288, NRS chapter 233B, and was properly noticed pursuant to Nevada's open meeting laws.

Complainant Heath Barnes filed a Complaint against Respondents Service Employees International Union Local 107 ("SEIU") and Clark County on September 10, 2009. Respondent Clark County filed a Motion to Dismiss on October 1, 2009. SEIU did not join in this motion. In substance, Clark County's motion seeks a dismissal pursuant to NRS 288.110(4), alleging that Mr. Barnes filed this action with the Board more than 6 months after being issued a Final Written Warning from his employer Clark County Department of Juvenile Justice Services on March 4, 2009. Clark County argues that the Final Written Warning, and any discussions regarding Mr. Barnes' termination could have occurred no later than March 4, 2009, and that the Complaint filed more than 6 months subsequent is time barred.

///

1 Complainant filed an Opposition to the motion, asserting that the triggering event which  
2 commences the 6-month time limit of NRS 288.110(4) was a refusal by the County to permit Mr.  
3 Barnes to file a grievance over the Final Written Warning, and that this conduct occurred on  
4 March 11, 2009. Mr. Barnes attaches as evidence an affidavit referencing a conversation with an  
5 individual named Alfred McDaniels that occurred on March 11, 2009. Alfred McDaniels is  
6 identified in the affidavit as Complainant's SEIU representative. The affidavit further states that  
7 Mr. Barnes notified an individual identified as Mr. Whelian that SEIU would not permit  
8 Complainant to file a grievance.

9 Clark County submits as evidence an affidavit asserting that it has never received any  
10 grievance from Mr. Barnes concerning this matter.

11 The Board, having duly considered the pleadings filed herein, and having fully  
12 considered the law and being fully advised in the premises makes its Findings of Fact,  
13 Conclusions of Law and Order as follows:

14 **FINDINGS OF FACT**

- 15 1. Complainant Heath Barnes signed a Final Written Warning issued by his  
16 employer Clark County Department of Juvenile Justice Services on March 4,  
17 2009.
- 18 2. Regarding the March 11, 2009 conversation with Alfred McDaniels,  
19 Complainant's affidavit indicates that Alfred McDaniels was a representative of  
20 SEIU, and was not a representative of Clark County.
- 21 3. There is substantial evidence that Complainant did not present any grievance of  
22 his Final Written Warning to Clark County.
- 23 4. Complainants Heath Barnes filed a Complaint in this action on September 10,  
24 2009.
- 25 5. If any of the foregoing findings is more appropriately construed a conclusion of  
26 law, it may be so construed.

27 ///

28 ///

1 **CONCLUSIONS OF LAW**

- 2 1. Under NRS 288.110(4), a Complainant before the Board must file his Complaint  
3 with the Board within 6 months after the occurrence which is the subject of the  
4 Complaint  
5 2. Complainant filed his Complaint more than 6 months after being issued the Final  
6 Written Warning  
7 3. Because Complainant did not present any grievance of his Final Written Warning  
8 to Clark County, the occurrence which is the subject of the Complaint, as to Clark  
9 County, occurred no later than March 4, 2009.  
10 4. Complainant's Complaint, as to Clark County, was filed beyond the 6-month  
11 limitation period of NRS 288.110(4).  
12 5. Because the Complaint, as to Clark County, was untimely filed, the Complaint is  
13 therefore barred by the 6-month limitation period of NRS 288.110(4)  
14 6. If any of the foregoing conclusions is more appropriately construed a finding of  
15 fact, it may be so construed.

16 **ORDER**

17 IT IS HEREBY ORDERED that Respondent Clark County's Motion to Dismiss

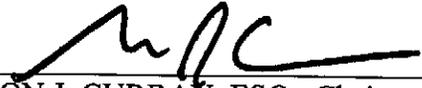
18 ///  
19 ///  
20 ///  
21 ///  
22 ///  
23 ///  
24 ///  
25 ///  
26 ///  
27 ///  
28 ///

1 is hereby Granted.

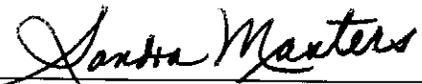
2 IT IS FURTHER ORDERED that this action is hereby dismissed as to Clark  
3 County only.

4 DATED this 10th day of November, 2009.

5 LOCAL GOVERNMENT EMPLOYEE-  
6 MANAGEMENT RELATIONS BOARD

7 BY:   
8 SEATON J. CURRAN, ESQ., Chairman

9 BY:   
10 JAMES E. WILKERSON, SR., Vice-Chairman

11 BY:   
12 SANDRA MASTERS, Board Member  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

STATE OF NEVADA  
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT  
RELATIONS BOARD

HEATH BARNES

Complainant,

vs.

CLARK COUNTY and SERVICE  
EMPLOYEES INTERNATIONAL UNION,  
LOCAL 1107,

Respondents.

CASE NO. A1-045962

**NOTICE OF ENTRY OF ORDER**

TO: Heath Barnes, and his attorney Adam Levine, Esq.

TO: Clark County, and their attorney Yolanda T. Givens, Esq. and Service Employees International Union, Local 1107, and their attorney Douglas V. Ritchie, Esq.

PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on November 10, 2009.

A copy of said order is attached hereto.

DATED this 10th day of November, 2009.

LOCAL GOVERNMENT EMPLOYEE-  
MANAGEMENT RELATIONS BOARD

BY

  
JOYCE HOLTZ, Board Secretary

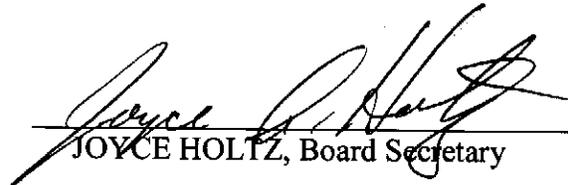
1 **CERTIFICATE OF MAILING**

2 I hereby certify that I am an employee of the Local Government Employee-Management  
3 Relations Board, and that on the 10th day of November, 2009, I served a copy of the foregoing  
4 ORDER by mailing a copy thereof, postage prepaid to:

5 Adam Levine, Esq.  
6 Law Offices of Daniel Marks  
7 530 S. Las Vegas Blvd., #300  
8 Las Vegas, NV 89101

9 Yolanda T. Givens, Esq.  
10 Deputy District Attorney  
11 PO Box 552215  
12 Las Vegas, NV 89155-2215

13 Douglas V. Ritchie, Esq.  
14 Laquer, Urban, Clifford & Hodge, LLP  
15 4270 S. Decatur Blvd. #A-9  
16 Las Vegas, NV 89103

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
  
JOYCE HOLTZ, Board Secretary