

1 STATE OF NEVADA
2 LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
3 RELATIONS BOARD
4

5 MIKE RENNIE,

6 Complainant,

7 vs.

8 COUNTY OF NYE and NYE COUNTY
9 LAW ENFORCEMENT ASSOCIATION,

10 Respondents.

) ITEM NO. 583A

) CASE NO. A1-045799

) ORDER

11 For Complainant:

Richard Segerblom, Esq.

12 For Respondent (Employer):

Marla Zloteck, Esq.
Nye County District Attorney's Office

13 For Respondent (Association):

14 Jon Benedict, Esq.
15 Brian R. Dziminski, Esq.
Ashworth & Benedict

16 STATEMENT OF THE CASE

17 On May 5, 2004, Complainant MIKE RENNIE ("Rennie") filed a Complaint with the
18 LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD ("Board").
19 On October 13, 2004, he filed his First Amended Complaint. For the reasons discussed below,
20 the Board hereby determines that dismissal of this matter is warranted.

21 DISCUSSION

22 In his May 5, 2004 Complaint, Rennie alleged the following facts to support his claims
23 that Respondents COUNTY OF NYE ("County") and NYE COUNTY LAW ENFORCEMENT
24 ASSOCIATION ("Association") violated NRS Chapter 288:

25 This action is brought pursuant to NRS 288.110(2) and NRS
26 288.280 within 180 days from the date when the Complainant
learned his union would not arbitrate his dismissal.

27 3. Complainant was terminated by the County on
28 September 25, 2003. Pursuant to the contract, the Association had
the right to request that Rennie's termination be arbitrated. Rennie
requested that the Association arbitrate his termination, but that

1 request was denied, even though the Association knew that the
2 case against Rennie was not viable. In deciding to reject Rennie's
3 request to arbitrate his termination, the Association and the County
4 conspired to deprive Rennie of his lawful right to a due process
5 hearing and obtain reinstatement with backpay.

6
7 4. These actions violate NRS Chapter 288 which
8 makes it unlawful for an employer and union to conspire to deprive
9 an employee of their [sic] right to challenge their [sic] termination
10 at a due process hearing.

11 The County filed its Answer and subsequently filed a "Motion for Summary Judgment,
12 Motion for a More Definite Statement or in the Alternative, Motion for Extension of Time to File
13 Prehearing Statement in accordance with NAC 288.250." Rennie opposed this motion and
14 requested that he be permitted to amend his Complaint to set forth further facts in support of his
15 Complaint. On September 22, 2004, the Board denied the County's Motion for Summary
16 Judgment but granted its Motion for a More Definite Statement and ordered Rennie to "file an
17 Amended Complaint in compliance with the requirements of NAC 288.200."

18 On October 13, 2004, Rennie filed his First Amended Complaint. In it, he alleges the
19 following facts to support his claims that the County and the Association violated NRS Chapter
20 288:

21 This action is brought pursuant to NRS 288.110(2) and NRS
22 288.280 within 180 days from the date when the Complainant
23 learned his union would not arbitrate his dismissal.

24 3. Complainant was terminated by the County on September 25,
25 2003. Prior to making the decision to terminate the Complainant
26 the County consulted with the Association and it was agreed
27 between the two that if Rennie requested to arbitrate his
28 termination, the Association would deny his request and the
County would assert that Rennie did not have the unilateral right to
request arbitration without approval from the Association.

4. In making this agreement the County and the Association
willfully agreed to deny Rennie his constitutional due process right
to a fair and impartial hearing in which he could challenge the
validity of his termination. This right is guaranteed to all
government employees who have a property right in their position,
including Rennie, and may not be taken from Rennie by agreement
or contract. In denying Rennie the right to a due process hearing
the County and the Association violated the United States
Constitution.

4. [sic] These actions violate NRS Chapter 288 which makes it
unlawful for an employer and union to conspire to deprive an

1 employee of their [sic] right to challenge their [sic] termination at a
2 due process hearing.

3 The County, joined by the Association, has moved to dismiss the Amended Complaint.
4 Rennie has opposed the motion. On January 5, 2005, the Board held deliberations on the Motion
5 to Dismiss, noticed in accordance with Nevada's Open Meeting Law. Based upon the Board's
6 deliberations, the Board finds and concludes as follows:

7 **FINDINGS OF FACT**

8 1. The Board does not have jurisdiction to determine Rennie's constitutional due
9 process claims. See I.A.F.F., Local 1607 v. City of North Las Vegas, Item No. 108, EMRB Case
10 No. A1-045341, at 2 (1981).

11 2. Rennie's claim that the County and the Association have conspired in violation of
12 NRS Chapter 288 is the only claim for which the Board's jurisdiction *might be* invoked.

13 3. NRS 288.200(2) requires that a complaint filed with the Board be a verified
14 complaint.

15 4. Rennie's First Amended Complaint, like his May 5, 2004 Complaint, is not
16 verified as required by NRS 288.200(2).

17 5. NAC 288.200(1) requires that a complaint include "[a] clear and concise
18 statement of the facts constituting the alleged practice sufficient to raise a justiciable controversy
19 under chapter 288 of NRS, including the time and place of the occurrence of the particular acts
20 and the names of the persons involved" and "[t]he legal authority under which the complaint was
21 made." NAC 288.200(1)(c)-(d).

22 6. Rennie's First Amended Complaint, like his May 5, 2004 Complaint, fails to satisfy
23 the requirements of NAC 288.200(1). Despite having had the opportunity to cure the
24 deficiencies in his May 5 2004 Complaint, Rennie has failed to set forth a sufficient statement of
25 facts with reference to legal authority to raise a justiciable controversy within this Board's
26 jurisdiction.

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1 7. Rennie's First Amended Complaint, like his May 5, 2004 Complaint, fails to
2 demonstrate the existence of probable cause to believe that a violation of NRS Chapter 288 has
3 occurred.

4 8. Should any finding of fact be more properly set forth as a conclusion of law, it
5 may be so deemed.

6 **CONCLUSIONS OF LAW**

7 1. The Board lacks jurisdiction to determine whether Rennie's constitutional rights
8 have been violated. See I.A.F.E., Local 1607 v. City of North Las Vegas, Item No. 108, EMRB
9 Case No. A1-045341, at 2 (1981).

10 2. Rennie's First Amended Complaint, like his May 5, 2004 Complaint, fails to
11 satisfy the requirements of NAC 288.200(1) and (2) as set forth in the above findings of fact.

12 3. Dismissal with prejudice pursuant to NAC 288.375(1) is warranted because
13 despite having had the opportunity to cure any deficiencies, Rennie's First Amended Complaint,
14 like his May 5, 2004 Complaint, fails to demonstrate the existence of probable cause to believe
15 that a violation of NRS Chapter 288 has occurred.

16 4. Should any conclusion of law be more properly set forth as a finding of fact, it
17 may be so deemed.

18 **ORDER**

19 For the reasons set forth herein and based on the above findings of fact and conclusions
20 of law,

21 IT IS HEREBY ORDERED that Rennie's Amended Complaint be DISMISSED WITH
22 PREJUDICE.¹

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26 ¹Because this matter is dismissed for lack of probable cause pursuant to NAC 288.375(1), the
27 Board declines to address the claims of the County and the Association that dismissal is
28 warranted for Rennie's failure to timely file a prehearing statement. The Board notes that it
deliberated on the Motion to Dismiss and reached a decision on January 5, 2005. Accordingly,
all motions subsequently filed are moot.

1 IT IS FURTHER ORDERED that each party shall bear its own attorneys' fees and costs
2 in this matter.

3 DATED this 23rd day of February, 2005.

4 LOCAL GOVERNMENT EMPLOYEE-
5 MANAGEMENT RELATIONS BOARD

6 BY: 

7 JANET TROST, ESQ., Chairman

8 BY: 

9 JOHN E. DICKS, ESQ., Board Member
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