

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

UMC PHYSICIANS' BARGAINING UNIT)
of NEVADA SERVICE EMPLOYEES)
UNION, SEIU LOCAL 1107, AFL-CIO,)
CLC,)

Complainant,

vs.

NEVADA SERVICE EMPLOYEES UNION,)
SEIU LOCAL 1107, AFL-CIO; VICKY)
HEDDERMAN, President of NEVADA)
SERVICE EMPLOYEES UNION, SEIU)
LOCAL 1107, AFL-CIO; JANE McALEVEY,)
Executive Director of NEVADA SERVICE)
EMPLOYEES UNION, SEIU LOCAL 1107,)
AFL-CIO; SERVICE EMPLOYEES)
INTERNATIONAL UNION, AFL-CIO, CLC;)
UNIVERSITY MEDICAL CENTER OF)
SOUTHERN NEVADA,)

Respondent.

ITEM: 605A

CASE NO. A1-045812

ORDER

For Complainant: Esther Rodriguez, Esq.
Rodriguez Law Offices

For Respondent SEIU: Michael A. Urban, Esq.
The Urban Law Firm

For Respondent UMC: Jeffrey I. Pitegoff, Esq.
Pitegoff Law Office

This matter comes to us by way of a remand from the Nevada Supreme Court with directions to address the question of whether Complainant is an "employee organization" as defined in NRS 288.040 and whether the complaint in this matter presents a justiciable controversy. UMC Physicians Bargaining Unit v. Nevada Service Employees Union/SEIU, Local 1107, 124 Nev. 84, 178 P.3d 709 (2008).

1 In order to answer those questions, the Board requested the parties to submit briefs
2 addressing those two questions, as well as whether subsequent changes to NRS 288.140 had
3 rendered this controversy moot.

4
5 In UMC Physicians, the Supreme Court held “that NRS 288.110 requires a party
6 complaining to the Board to be a local government employer, local government employee, or
7 employee organization.” UMC Physicians at 90, 178 P.3d at 713. The court further noted that a
8 bargaining unit is not necessarily an employee organization, and that Complainant PBU may not
9 rest its claim to be an employee organization merely upon its status as a bargaining unit. Id. at
10 91-92, 178 P.3d at 714. Instead, the analysis must turn on whether Complainant “is an
11 association, with some internal organization, seeking to improve working conditions for local
12 government employees.” Id.

14 Having reviewed the briefing submitted by the parties, we conclude that Complainant is
15 not an “employee organization” as defined in NRS 288.040. Complainant does not offer any
16 argument or other reason to believe that it has any internal organization. Instead, it is apparent
17 that Complainant is actually purporting to be the bargaining unit itself. In particular,
18 Complainant asserts in its brief that it has been recognized by the EMRB and by UMC as the
19 employee organization for the physicians. However, the Board has never recognized PBU as a
20 bargaining agent,¹ and such an assertion conflicts with PBU’s complaint which is based upon an
21 assertion that it was Respondent SEIU that was recognized by the employer and failed in its duty
22 as the bargaining agent. We also note that the complaint filed by PBU in this matter asserts it to
23 be a bargaining unit. Therefore, the Board must conclude that Complainant in this matter is not
24 an employee organization.

28 ¹ If PBU had actually been recognized, it would have been required to file an annual report with the Board.
NRS 288.165.

1 NRS 288.110 only grants authority to this Board to hear complaints brought by local
2 government employees, employee organizations and local government employers. UMC
3 Physicians at UMC Physicians at 90, 178 P.3d at 713. As Complainant does not meet those
4 criteria, the complaint in this matter falls outside of this Board's authority, and must be
5 dismissed.

6 While the bargaining unit itself may not bring the complaint, our decision today does not
7 prevent individual employees from bringing complaints before the Board, which would be the
8 correct manner to bring the dispute within the confines of NRS 288.110. See Rosequist v.
9 International Association of Firefighters, Local 1908, 118 Nev. 444, 49 P.3d 651 (2002). Nor
10 does our decision prevent other entities that are able to satisfy the definition of an employee
11 organization from bringing complaints before the Board.

13 As our answer to the first question posed by the Supreme Court is dispositive in this case,
14 it is not necessary to answer the second question.

16 Having considered the foregoing, and good cause appearing therefore the Board makes
17 the following findings of fact and conclusions of law.

18 **FINDINGS OF FACT**

- 19 1. Complainant does not assert or demonstrate that it has any internal organization.
- 20 2. Complainant's complaint alleges that it is a bargaining unit.
- 21 3. This Board has never recognized complainant as a bargaining agent.
- 22 4. Complainant is a bargaining unit rather than an employee organization.

24 **CONCLUSIONS OF LAW**

- 25 1. NRS 288.110 requires a party complaining to the Board to be a local government
26 employer, local government employee, or employee organization.
- 27 2. A bargaining unit is not necessarily an employee organization
- 28

1 3. An employee organization must be an association, with at least some internal
2 organization, that seeks to improve the working conditions for local government employees.

3 4. Complainant is not an employee organization as it has not argued or demonstrated that it
4 has any internal organization.
5

6 **ORDER**

7 It is hereby ordered that the complaint filed in this matter is dismissed.

8
9 DATED the 10th day of January, 2014.

10 LOCAL GOVERNMENT EMPLOYEE-
11 MANAGEMENT RELATIONS BOARD

12
13 BY: 
14 PHILIP E. LARSON, Chairman

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16 BY: 
17 SANDRA MASTERS, Vice-Chairman

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19 BY: 
20 BRENT C. ECKERSLEY, ESQ. Board Member
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AFL-CIO; SERVICE EMPLOYEES)
INTERNATIONAL UNION, AFL-CIO, CLC;)
UNIVERSITY MEDICAL CENTER OF)
SOUTHERN NEVADA,)

Respondent.

CASE NO. A1-045812

NOTICE OF ENTRY OF ORDER

For Complainant: Esther Rodriguez, Esq.
Rodriguez Law Offices

For Respondent SEIU: Michael A. Urban, Esq.
The Urban Law Firm

For Respondent UMC: Jeffrey I. Pitegoff, Esq.
Pitegoff Law Office

PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on
January 10, 2014.

A copy of said order is attached hereto.

DATED this 10th day of January, 2014.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY Yvonne Martinez
YVONNE MARTINEZ, Executive Assistant

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YVONNE MARTÍNEZ, Executive Assistant