

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

5 PEGGY MUNSON,

6 Complainant,

7 vs.

8 CITY OF LAS VEGAS; CITY OF LAS
9 VEGAS DEPARTMENT OF FIRE &
RESCUE,

10 Respondents.

) ITEM NO. 609

) CASE NO. A1-045825

) ORDER

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12 For Complainant: Harold P. Gewerter, Esq.
Harold P. Gewerter, Esq., Ltd.

13 For Respondent: Philip R. Byrnes, Esq.
14 Las Vegas City Attorney's Office

15 Statement of the Case

16 Complainant Peggy Munson ("Complainant") filed the Complaint in the subject
17 proceeding against Respondents City of Las Vegas and City of Las Vegas Department of re
18 and Rescue ("Respondents") on May 5, 2005 alleging, *inter alia*, practices prohibited under NRS
19 288.270(1)(a) and (f), to wit: interference, restraint or coercion of her exercise of her ri s
20 guaranteed under NRS Chapter 288 and discrimination based on sex associated with r
21 demotion from the position of arson investigator/bomb technician. Complainant caused d
22 complaint to be served on Respondents on May 9, 2005. Respondent has not answered u e
23 Complaint.

24 On June 7, 2005, Complainant filed a Request for Entry of Default. On June 24, 2005
25 Respondent City of Las Vegas filed a Motion to Dismiss on the grounds that Complainant ha d
26 failed to exhaust her contractual remedies.

27 The Request and Motion were noticed for deliberations on September 7-9, 2005, i n
28 accordance with Nevada's Open Meeting Law, and based thereon:

1 Findings of Fact

- 2 1. Respondents have not answered the Complaint herein.
3 2. The Motion to Dismiss of Respondent City of Las Vegas was filed more than
4 forty-five days after the Complaint was served on it.

5 Conclusions of Law

- 6 1. The Board has jurisdiction based on Complainant's status as a local government
7 employee and Respondent's status as a local government employer.
8 2. A respondent has twenty days from service to answer a complaint before the
9 Board for Prohibited Labor Practices under NRS Chapter 288. NAC 288.200(1)
10 NRS 41.0341 and NRCP 12 do not apply to Board proceedings.
11 3. If an answer is not made within the prescribed time, the dilatory party is
12 precluded, except with the consent of the opposing party or the Board, from
13 asserting any affirmative defense in the proceeding, NAC 288.200(3).
14 4. Respondent's Motion to Dismiss is grounded on the alleged failure of the
15 Complainant to exhaust contractual remedies, i.e., complete the arbitration
16 process.
17 5. Respondent's Motion to Dismiss is untimely, having been filed in excess of
18 twenty days after the Complaint was served on it, and is subject to preclusion
19 under NAC 288.200(3). The Board therefore denies said motion.
20 6. No pleading having been submitted by Respondents, the Board is entitled to treat
21 all properly pled allegations of the Complaint as true and, treating Complainant's
22 request for entry of default as a Motion for Judgment on the Pleadings, to render
23 judgment thereon.

24 Decision and Order

25 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that decision is entered in
26 favor of Complainant and against Respondents.
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IT IS FURTHER ORDERED that respondent be restored to her prior position as Fif Investigator and Bomb Technician with full back pay and other benefits, plus costs and attorney's fees to be proven by Complainant on supplementary motion.

DATED this 8th day of September, 2005.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY: Tamara E. Barenko
TAMARA E. BARENGO, Chairman

BY: John E. Dicks
JOHN E. DICKS, ESQ., Vice-Chairman

BY: Janet Trost
JANET TROST, ESQ., Board Member