

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

5 HEATH BARNES)

6 Complainant,)

7 vs.)

8 CLARK COUNTY and SERVICE)
9 EMPLOYEES INTERNATIONAL UNION,)
10 LOCAL 1107,)

11 Respondents.)

ITEM NO. 711

CASE NO. A1-045962

ORDER

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

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

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

19 Complainant Heath Barnes filed a Complaint against Respondents Service Employees
20 International Union Local 107 ("SEIU") and Clark County on September 10, 2009. Respondent
21 Clark County filed a Motion to Dismiss on October 1, 2009. SEIU did not join in this motion. In
22 substance, Clark County's motion seeks a dismissal pursuant to NRS 288.110(4), alleging that
23 Mr. Barnes filed this action with the Board more than 6 months after being issued a Final Written
24 Warning from his employer Clark County Department of Juvenile Justice Services on March
25 2009. Clark County argues that the Final Written Warning, and any discussions regarding Mr.
26 Barnes' termination could have occurred no later than March 4, 2009, and that the Complaint
27 filed more than 6 months subsequent is time barred.

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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. Complainant 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.

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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

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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. WICKERSON, SR., Vice-Chairman

11 BY: 
12 SANDRA MASTERS, Board Member
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11 Respondents.)

CASE NO. A1-045962

NOTICE OF ENTRY OF ORDER

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

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


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

17 A copy of said order is attached hereto.

18 DATED this 10th day of November, 2009.

19 LOCAL GOVERNMENT EMPLOYEE-
20 MANAGEMENT RELATIONS BOARD

21 BY


22 JOYCE HOLTZ, Board Secretary
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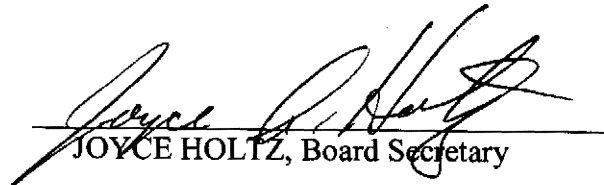
CERTIFICATE OF MAILING

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

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

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

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


JOYCE HOLTZ, Board Secretary

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