



## Government Employee- Management Relations Board

Nevada Department of Business and Industry

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July 2021

### Members of the Board

Brent C. Eckersley, Esq., Chair

Sandra Masters, Vice-Chair

Gary Cottino, Board Member

Brett K. Harris, Esq., Board Member

Michael J. Smith, Board Member

### Staff

Bruce K. Snyder, Commissioner

Marisu Romualdez Abellar,

Board Secretary

## Recent Decisions

Please note that summaries of recent decisions are provided for informational purposes only and are not intended to substitute for the opinions of the Board. These summaries should not be cited to or regarded as legal authority. The EMRB will provide copies of the decisions upon request. They also may be found on our website.

**Item No. 871; Case 2019-010; Leonard Cardinale v. City of North Las Vegas.** Lt. Cardinale alleged that he was discriminated against for personal or political reasons in violation of NRS 288.270(1)(f) when he alleged that the City of North Las Vegas made decisions with the effect of keeping him on the graveyard shift despite his shift bidding seniority. Complainant had also complained that he was discriminated against for personal or political reasons when he was denied leave and training opportunities. The Board held that Complainant had not made out a prima facie case for such discrimination, finding that the Respondent would have taken the same action regardless of Complainant's protected conduct. The Board specifically noted that an aggrieved employee must make a prima facie case sufficient to support the inference that the protected conduct was a motivating factor in the employer's decision and that it is not enough for the employee to simply put forth evidence that is capable of being believed but, rather, that the evidence must actually be believed. The Board thus found in favor of the Respondent.

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## Familiar Faces Re-Elected as EMRB Officers

At its most recent meeting on July 9<sup>th</sup> the Board re-elected Brent C. Eckersley, Esq. as Chair of the EMRB and Sandra Masters as Vice-Chair. Mr. Eckersley was first elected Chair in July 2017. Prior to that he had served as Vice-Chair under Chair Philip E. Larson. Ms. Masters has also served as Vice-Chair since July 2017.



### List of Panels

- Panel A Eckersley, Masters, Harris
- Panel B Masters, Harris, Smith
- Panel C Cottino, Harris, Smith
- Panel D Eckersley, Cottino, Smith
- Panel E Eckersley, Masters, Cottino

Note: The first person listed for each panel is the Presiding Officer.

## Payments on Annual Assessments Due July 31<sup>st</sup>

The EMRB is a self-funded agency, receiving all its operating funds through local governments paying \$3.00 for each of their employees and the State government paying \$6.00 per employee. The EMRB does not receive any general fund revenues. The EMRB mailed the annual invoices on June 28<sup>th</sup>. The invoices were mailed to the official contact person at each government. You should have already received the invoice, which is payable by July 31<sup>st</sup>.

Many of the governments have already paid their invoice – and to them we say, “Thank you.” If you have not yet received the invoice, please call our office immediately. If you have received the invoice, please forward it to the appropriate person or section that approves invoices for payment. If, because of your government’s bill approval process you need extra time to remit the payment, please call our office and we will work with you.

Governments who do not pay by July 31<sup>st</sup> and who have not made other arrangements as described in the prior paragraph will be contacted by telephone and e-mail beginning August 3<sup>rd</sup>.

## Reminder About Useful Resources

The EMRB maintains on its website a list of individuals who are willing to serve as an arbitrator, mediator or fact-finder. Although many governments use the services of someone affiliated with the Federal Mediation and Conciliation Service (FMCS) or the American Arbitration Association (AAA), there are certain instances in which a local government must apply for and receive a list specifically from the EMRB. Also, the EMRB keeps current copies of all collective bargaining agreements on our website. Check out all these resources next time you visit [emrb.nv.gov](http://emrb.nv.gov).

Additionally, the EMRB has all its decisions from its inception in 1969 through September 2019 on the Nevada Library on CD, published by the Legislative Counsel Bureau. This product, used by many law firms and governments, is searchable in many ways and is relatively inexpensive to purchase. The product is scheduled to be updated in the coming months now that the 2021 session of the legislature is completed. Then the product should have EMRB decisions through this coming September.

## EMRB Office Open

This is just a reminder that our office is now open to the public. When the office first reopened, we required that those visiting our office would need to make an appointment. That is no longer the case. There are only two remaining requirements. The first is a building wide mandate; namely that the public must wear a mask, irrespective of their vaccination status. The second requirement is that we are limiting the number of visitors to two at a time, except for Board meetings and settlement conferences. This really should not be an issue as the EMRB does not get too many visitors to begin with.

## Board Members Continuing in Office

The Board consists of five members appointed by the Governor for four-year terms. Due to the increase in the size of the Board from three members to five members back in 2017, along with two resignations since then, it just happens that four of the five Board members had terms ending June 30<sup>th</sup> of this year. These include Chair Brent C. Eckersley, Vice-Chair Sandra Masters, Board Member Gary Cottino and Board Member Michael J. Smith. Board Member Brett K. Harris’ terms ends next year.

State law, though, provides that members may continue to serve on a board until such time as a successor has been appointed to fill the expired term. We hope to hear soon as to whether the existing Board members have been reappointed or whether there will be one or more successors appointed.

## In the Queue...

Once initial pleadings, including prehearing statements, have been filed with the EMRB and after any motions to dismiss or defer have been decided, then a case typically goes into a queue, waiting for the Board to decide whether to grant a hearing in the case or dismiss the complaint. The Board has scheduled cases into September 2021.

**August 10-12, 2021, via WebEx (Panel A)**

2020-022; International Union of Operating Engineers Local 501 v. Esmeralda County

**September 8-10, 2021, via WebEx (Panel A)**

2021-005, Las Vegas Police Protective Association v. City of Las Vegas

**September 15-16, 2021, via WebEx (Panel D)**

2021-003, International Association of Fire Fighters, #1265 v. City of Sparks

There are no other cases waiting for a hearing date to be assigned.

## On the Horizon

The Board meeting originally set for July 22, 2021 has been cancelled due to lack of business.

The next Board meeting will be August 10-12, 2021. At that time Panel A will hold a hearing in Case 2020-002, International Union of Operating Engineers Local 501 v. Esmeralda County et al. The employee organization alleges that the Respondent excluded it from bargaining sessions and failed to negotiate in good faith over an initial collective bargaining agreement. Respondent denies the allegations and raises the issue of whether the employee organization is supported by a majority of the bargaining unit.

Panel A will also deliberate on a hearing previously held in Case 2020-030, AFSCME, Local 4041 v. State of Nevada et al. This case involves employees at the Thomas and Mack Center, who were placed on unpaid leave, due to the cancellation of events resulting from the pandemic. The labor organization alleges that UNLV committed a unilateral change and refused to bargain in good faith over the issue while the Respondent alleges that its actions fell within the scope of the State's emergency management powers in NRS 288.

The full Board will also deliberate on two motions to dismiss in Case 2020-012, Operating Engineers Local Union No. 3 v. Incline Village General Improvement District and Case 2021-006, Elena Konsolakis Garcia v. Service Employees International Union, Local 1107. The first of these two motions to dismiss also requests that the Board lift the stay currently in place.

The Board meeting originally set for August 26, 2021 has also been cancelled due to a lack of business.

### "About the EMRB"

The Government Employee-Management Relations Board (EMRB), a Division of the Department of Business and Industry, fosters the collective bargaining process between governments and their labor and employee organizations (i.e., unions), provides support in the process, and resolves disputes between governments, labor and employee organizations, and individual employees as they arise.