

VERMONT LABOR RELATIONS BOARD

BARRY BIRD	)	
	)	
v.	)	DOCKET NO. 98-41
	)	
CHITTENDEN COUNTY	)	
TRANSPORTATION AUTHORITY	)	

ORDER

At issue is whether the Labor Relations Board should issue an unfair labor practice complaint in this matter. On June 25, 1998, Barry Bird filed an unfair labor practice charge against the Chittenden County Transportation Authority ("Employer" or "CCTA"). Therein, Bird alleged that the Employer violated 21 V.S.A. §1726(a)(1). Specifically, Bird alleged that the Employer retaliated against him for being out on workers' compensation, and created a hostile work environment for him, by first dismissing him and then reducing the dismissal to a three day suspension.

On July 9, 1998, the Employer filed a response to the charge. The Employer indicated that an agreement had been reached between the Employer and the business agent for Teamsters Local 597, the union which represents Bird and other CCTA employees, to reduce Bird's dismissal to a three day suspension. The Employer contended that the charge should be dismissed because it failed to assert any statutory violation and any dispute over discipline imposed on Bird should be addressed in the grievance procedure provided for in the collective bargaining agreement between the Employer and the Union.

Bird responded to the Employer's response to the charge by a letter filed with the Labor Relations Board on August 25, 1998. Therein, Bird stated that he had filed a grievance over his dismissal, and the Union business agent had told him that the Union would not take his case to arbitration and he would have to settle with whatever terms were agreed upon between the Employer and the Union. Bird indicated that he did not agree to the three day suspension and wanted to take his case to arbitration.

The Board has discretion whether to issue an unfair labor practice complaint and hold a hearing on an unfair labor practice charge. 21 V.S.A. Section 1727(a). In exercising this discretion, the Board will not issue a complaint unless the charging party sets forth sufficient factual allegations for the Board to conclude that the charging party may have committed an unfair labor practice. Burke Board of School Directors v. Caledonia North Education Association, 17 VLRB 187 (1994).

We conclude that the circumstances do not warrant issuance of an unfair labor practice complaint. Bird initially contested his dismissal by filing a grievance under the collective bargaining agreement. The integrity of the collective bargaining process is ensured by requiring parties to collective bargaining agreements to follow the grievance procedures they have negotiated to resolve disputes. Burlington Area Public Employees Union, Local 1343, AFSCME, AFL-CIO v. Champlain Water District, 156 Vt. 516, 519 (1991); *citing* Burlington Education Association v. Burlington Board of School Commissioners, 1 VLRB 335 (1978).

The Employer proceeded consistent with this policy fostering the collective relationship by reaching an accommodation with the Union to reduce the disciplinary

action against Bird. We are not inclined to hamper such efforts, and believe it would be an unwise use of our discretion to issue an unfair labor practice complaint against the Employer. Efforts by Bird for redress were better directed at seeking to obtain a more desirable resolution through the grievance procedure than in pursuing an unfair labor practice charge against the Employer.

Further, we note that the remedy requested by Bird in this matter goes beyond the appropriate exercise of our authority. In exercising our powers to remedy unfair labor practices, Board orders are remedial, "make whole" orders, and are not punitive. VSCEF v. VSC, 17 VLRB 1, 17 (1994). Cavendish Town Elementary School Teachers' Association, Vermont-NEA/NEA v. Cavendish Town Board of School Directors, 16 VLRB 378, 391 (1993). The task of the Board is to restore the economic status quo, and recreate the conditions and relationships, that would have existed but for the employer's wrongful act. VSCEF v. VSC, 17 VLRB at 1. Burlington Education Association v. Burlington School District, 16 VLRB 398, 410-11 (1993). Bird's requested remedy of a \$100,000 cash settlement, and the resignation of the Employer's General Manager, go well beyond a "make whole" order and exceed the appropriate exercise of our authority. Walker v. Chittenden County Transportation Authority, 21 VLRB 179, 180-81 (1998).

NOW THEREFORE, based on the foregoing reasons, we decline to issue an unfair labor practice complaint and it is hereby ORDERED that the unfair labor practice charge filed by Barry Bird is DISMISSED.

Dated this 27<sup>th</sup> day of October, 1998, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

/s/ Catherine L. Frank  
Catherine L. Frank, Chairperson

/s/ Leslie G. Seaver  
Leslie G. Seaver

/s/ Carroll P. Comstock  
Carroll P. Comstock

/s/ Richard W. Park  
Richard W. Park

/s/ John J. Zampieri  
John J. Zampieri