

VERMONT LABOR RELATIONS BOARD

GRIEVANCE OF:)	
)	DOCKET NO. 00-57
JAMES ADAMS)	

MEMORANDUM AND ORDER

The issue before the Labor Relations Board is whether to grant a motion filed by the State of Vermont Department of Social and Rehabilitation Services ("Employer") to dismiss the grievance filed in this matter. On September 6, 2000, James Adams ("Grievant") filed a grievance with the Labor Relations Board alleging that the Employer violated his constitutional free speech rights in giving him a November 6, 1998, letter of supervisory feedback. On December 27, 2000, the Employer filed a motion to dismiss this grievance for being improperly filed at the Board and untimely filed at an earlier step of the grievance procedure. Grievant filed a response to the Employer's motion on January 16, 2001.

The employer makes several arguments in support of its claim that this grievance should be dismissed, but we need only address the timeliness of the filing of this grievance at an earlier step of the grievance procedure. Before filing his grievance with the Board, Grievant initiated his grievance by proceeding through Steps II and III of the grievance procedure established in the collective bargaining agreement between the State and the Vermont State Employees' Association. He filed his Step II grievance in August of 2000 (see Exhibit 6 to State's Motion to Dismiss).

Under contracts providing that grievances must be filed within specified times at earlier steps of the grievance procedure, the Board previously has dismissed grievances for failing to follow the contractual filing timeframes at an earlier step of the grievance procedure. Grievance of

Adams, 23 VLRB 92 (2000). Grievance of Boyde, 18 VLRB 518 (1995), *Affirmed*, 165 Vt. 624 (1996). Grievance of Dyer, 4 VLRB 306 (1981). We conclude that Article 15, Section 3, of the State-VSEA collective bargaining agreement requires the dismissal of this grievance. It provides that, if an employee initiates his grievance at Step II of the grievance procedure, the "employee must file a written grievance...within fifteen workdays of the date upon which the employee could have reasonably been aware of the occurrence of the matter which gave rise to the complaint". It further provides that, if the grievance is not submitted within that timeframe, "the matter shall be considered closed". Here, Grievant's Step II grievance clearly was untimely since it was filed approximately 20 months after the occurrence of the matter which gave rise to the complaint – the November 6, 1998, letter of supervisory feedback. Thus, this matter must be considered closed pursuant to the collective bargaining agreement.

Based on the foregoing reasons, it is hereby ordered that the State of Vermont Department of Social and Rehabilitation Service's motion to dismiss is granted, and the Grievance of James Adams is dismissed.

Dated this 24th day of January, 2001, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

Catherine L. Frank, Chairperson

Carroll P. Comstock

Richard W. Park

Edward R. Zuccaro

