

**STATE OF ILLINOIS  
EDUCATIONAL LABOR RELATIONS BOARD**

In the Matter of:	)	
	)	
Peoria Federation of Support Staff/Cafeteria	)	
Local 6099, IFT/AFT,	)	
	)	
Complainant,	)	
	)	
and	)	Case No. 2005-CA-0028-S
	)	
Peoria School District 150,	)	
	)	
Respondent.	)	

**OPINION AND ORDER**

On April 19, 2006, an Administrative Law Judge (“ALJ”) issued a Recommended Decision and Order in this case. The ALJ determined that Peoria School District 150 (“District”) had violated Sections 14(a)(1) and 14(a)(3) of the Illinois Educational Labor Relations Act, 115 ILCS 5/1 et seq. (“Act”) by reducing employees’ hours. The ALJ also determined that the District had violated Section 14(a)(5) of the Act by delaying bargaining, and had violated Sections 14(a)(5) and 14(a)(1) of the Act by unilaterally implementing the reduction in hours. The ALJ dismissed as untimely the allegation of the Peoria Federation of Support Staff/Cafeteria Local 6099, IFT/AFT (“Federation”) that the District violated Sections 14(a)(5) and 14(a)(1) of the Act by refusing to provide information. In addition, the ALJ decided that the District had violated Section 14(a)(6) of the Act by implicitly refusing to sign the collective bargaining agreement. The certified mail receipt for the ALJ’s Recommended Decision and Order shows that it was received by the District’s attorneys on April 21, 2006.

On May 12, 2006, the District sent to the Illinois Educational Labor Relations Board (“Board”) by regular mail exceptions to the ALJ’s Recommended Decision and Order. The

Board received the exceptions on May 15, 2006. On June 5, 2006, the Federation filed a response to the District's exceptions, in which the Federation incorporated its post-hearing brief.

We strike the District's exceptions as untimely. Section 1105.220(b) of the Board's Rules, 80 Ill. Admin. Code 1105.220(b), provides that exceptions to an ALJ's Recommended Decision and Order may be filed "no later than twenty-one days after the receipt of the recommended decision." Section 1120.50(a) of the Board's Rules, 80 Ill. Admin. Code 1120.50(a), provides that, if no exceptions are timely filed, "the parties will be deemed to have waived their exceptions." In pertinent part, Section 1100.20(a) of the Board's Rules, 80 Ill. Admin. Code 1100.20(a), provides:

Except as otherwise specified in the rules of the Board, documents shall be considered filed with the Board on the date they are received by the Board or on the date they are postmarked if sent by registered or certified mail. Documents sent by any means other than registered or certified mail shall be considered filed on the date they are received by the Board, except that documents shall be considered filed on the date they are tendered to an overnight delivery service, if that service provides a receipt showing the date on which the documents were tendered for delivery.

Here, the District filed its exceptions by regular mail. Therefore, they are considered to have been filed on the date that the Board received them, which was May 15, 2006. May 15, 2006 was more than 21 days after April 21, 2006, the date that the District's attorneys received the ALJ's Recommended Decision and Order. Accordingly, the District's exceptions must be stricken as untimely.

In *Pierce v. IELRB*, 334 Ill.App.3d 25, 777 N.E.2d 570 (1<sup>st</sup> Dist. 2002) and in *Board of Education of City of Chicago v. IELRB*, 289 Ill.App.3d 1019, 682 N.E.2d 398 (1<sup>st</sup> Dist. 1997), the Appellate Court concluded that a party waived its right to contest an ALJ's Recommended Decision and Order by failing to file timely exceptions to that Recommended Decision and Order. The same conclusion applies here.

For the above reasons, we strike the District's exceptions. The ALJ's non-precedential Recommended Decision and Order is final and binding on the parties.

**Right to Appeal**

This is a final order of the Illinois Educational Labor Relations Board. Aggrieved parties may seek judicial review of this Order in accordance with the provisions of the Administrative Review Law, except that, pursuant to Section 16(a) of the Act, such review must be taken directly to the appellate court of the judicial district in which the Board maintains an office (Chicago or Springfield). "Any direct appeal to the Appellate Court shall be filed within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision," 115 ILCS 5/16(a).

Decided: October 10, 2006  
Issued: October 11, 2006  
Chicago, Illinois

/s/ Lynne O. Sered  
Lynne O. Sered, Chairman

/s/ Ronald F. Ettiner  
Ronald F. Ettinger, Member

/s/ Bridget L. Lamont  
Bridget L. Lamont, Member

/s/ Michael H. Prueter  
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