

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 August 25, 2006. August 25, 2006 was more than 21 days after August 2, 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.

Similarly, in *Peoria School District 150*, 22 PERI 134, Case No. 2005-CA-0028-S (IELRB, October 11, 2006), the employer filed its exceptions by regular mail. The Board considered the exceptions to have been filed on the date that it received them, which was more than 21 days after the date that the employer's attorneys received the Administrative Law Judge's Recommended Decision and Order. Accordingly, the Board struck the exceptions. The same result applies here.

In *Pierce v. IELRB*, 334 Ill.App.3d 25, 777 N.E.2d 570 (1st Dist. 2002) and in *Board of Education of City of Chicago v. IELRB*, 289 Ill.App.3d 1019, 682 N.E.2d 398 (1st 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. We reach the same conclusion 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: April 12, 2007
Issued: April 19, 2007
Chicago, Illinois

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

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

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

/s/ Michael H. Prueter
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