

**STATE OF ILLINOIS
EDUCATIONAL LABOR RELATIONS BOARD**

In the Matter of:)	
)	
Mack N. Jobe,)	
)	
Charging Party,)	
)	
and)	Case No. 2007-CB-0004-C
)	
Association of Federal, State, County, and)	
Municipal Employees (AFSCME) Local 949,)	
)	
Respondent.)	

OPINION AND ORDER

On October 3, 2006 Mack N. Jobe (pro se) filed an unfair labor practice charge with the Illinois Educational Labor Relations Board (“Board”). On February 13, 2007, the Executive Director issued a Recommended Decision and Order. The Executive Director determined that Jobe had not established an un rebutted prima facie case that AFSCME Local 949 (“Union”) violated Section 14(b)(1) of the Illinois Educational Labor Relations Act (“Act”). Accordingly, he dismissed the unfair labor practice charge in its entirety.

Jobe filed exceptions to the Executive Director’s Recommended Decision and Order. Jobe’s exceptions were accompanied by a photocopy of the Affidavit of Service that accompanied the Executive Director’s Recommended Decision and Order, with fax numbers written on it. Jobe did not sign or date the document. The Union did not file a response to Jobe’s exceptions. We strike Jobe’s exceptions and affirm the Executive Director’s Recommended Decision and Order on the basis that Jobe did not provide an adequate certificate of service.

I.

Section 1100.20(d) of the Board’s Rules, 80 Ill. Adm. Code 1100.20(d), provides that “[a]ll documents...will be served on the appropriate parties by the party propounding the document....” Section 1100.20(e) of the Board’s Rules, 80 Ill. Adm. Code 1100.20(e), provides that “[w]henver a document is filed with the Board, it shall be accompanied by a certificate of service.” Section 1120.30(c) of the Board’s Rules, 80 Ill. Adm. Code 1120.30(c), provides that “[c]opies of all exceptions [to the Executive Director’s dismissal of a charge] and supporting briefs shall be served upon all other parties and a certificate of service shall be attached.” Section 1100.20(e) of the Board’s Rules defines a certificate of service as “a written statement, signed by the party effecting

service, detailing the name of the party served and the date and manner of service.” Section 1100.20(f) of the Board’s Rules, 80 Ill. Adm. Code 1100.20(f), provides:

Failure of a party to serve a document or failure to attach a certificate of service may be grounds to strike the document, if the failure results in prejudice to another party (such as lack of notice or detrimental reliance) or demonstrates disregard of the Board’s processes (such as continued noncompliance).

The Board has consistently stricken exceptions where a party has failed to provide a certificate of service or otherwise demonstrate that the exceptions have been served on the other parties. *International Brotherhood of Teamsters, Local 743, AFL-CIO*, 21 PERI 89, Case Nos. 2004-CB-0002-C, 2004-CA-0006-C (IELRB, May 20, 2005); *International Union of Operating Engineers, Local 143-143-B*, 21 PERI 23, Case No. 2004-CB-0013-C (IELRB, February 17, 2005). The Appellate Court approved this practice in *Jones v. IELRB*, 272 Ill.App.3d 612, 650 N.E.2d 1092 (1st Dist. 1995).

In this case, Jobe did not provide an adequate certificate of service or otherwise demonstrate that he served his exceptions on the Union. The document that Jobe supplied did not contain a statement that he served the Union and was neither signed nor dated, as Section 1100.20(e) requires. The Union has not filed a response to Jobe’s exceptions. The Union has been prejudiced by Jobe’s failure to serve because he denied it an adequate opportunity to respond to his exceptions. Therefore, we strike Jobe’s exceptions.

II.

For the above reasons, IT IS HEREBY ORDERED that the Executive Director’s Recommended Decision and Order is affirmed. The unfair labor practice charge is dismissed in its entirety.

III. 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: June 12, 2007
Issued: June 12, 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
Michael H. Prueter, Member

/s/ Jimmie E. Robinson
Jimmie E. Robinson, Member

Illinois Educational Labor Relations Board
160 North LaSalle Street, Suite N-400
Chicago, Illinois 60601
Telephone: (312) 793-3170