

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS

In the Matter of	*	
	*	
MASSACHUSETTS CORRECTION	*	Case Nos. ASF-16-5586
OFFICERS FEDERATED UNION	*	ASF-18-6576
	*	
and	*	Date Issued: August 24, 2018
	*	
BRIAN V. JANSEN	*	
	*	

Hearing Officer:

Will Evans, Esq.

Appearances:

Olinda R. Marshall, Esq.:	Representing the Union
Brian V. Jansen:	Pro Se

HEARING OFFICER DECISION

1 On October 28, 2016, Brian Jansen (Jansen) filed a charge (ASF-16-5586) with
2 the Department of Labor Relations (DLR) alleging that on October 3, 2016, the
3 Massachusetts Correction Officers Federated Union (Union) had demanded an agency
4 service fee from him for 2016-2017, despite expelling him from the Union, in violation of
5 Section 10(b)(1) of M.G.L. c.150E (the Law). A duly designated DLR investigator
6 conducted an investigation of the matter on January 19, 2017. On February 6, 2017, the
7 investigator issued a Complaint of Prohibited Practice (Complaint), alleging that the
8 Union had violated Section 10(b)(1) of the Law. The Union filed an Answer to the
9 Complaint on March 8, 2017, admitting to certain allegations and denying certain others.
10 I held a pre-hearing conference in the matter on February 2, 2018.

1 On April 5, 2018, Jansen filed a second charge (ASF-18-6576) with the DLR
2 alleging that, on October 20, 2017, the Union again demanded an agency service fee
3 from him for 2017-2018 in violation of Section 10(b)(1) of the Law. As the second
4 charge raised the same allegations and legal issues as the first charge, the parties
5 waived their right to an in-person investigation, the cases were consolidated, and an
6 Amended Complaint (Amended Complaint) was issued on May 2, 2018. The DLR
7 scheduled a hearing for Friday, September 28, 2018 at 10:00am in Boston.


8 On June 27, 2018, the United States Supreme Court issued a decision in Janus
9 v. American Federation of State, County, and Municipal Employees, Council 31, Docket
10 No. 16-1466, which held, in part, that the extraction of agency service fees from
11 nonconsenting public sector employees violates the First Amendment. On July 26,
12 2018, in response to a DLR inquiry, the Union notified the DLR that it "no longer seeks
13 agency service fees from Brian Jansen for 2016-2017 and 2017-2018 and hereby
14 rescinds its October 3, 2016 and October 20, 2017 demand letters."

15 Because the dispute over the agency service fees in cases ASF-16-5586 and
16 ASF-18-6576 has been resolved, I sent notice to Jansen on August 7, 2018 to show
17 cause why the Amended Complaint should not be dismissed and the hearing scheduled
18 for September 28, 2018 cancelled. Jansen's response was due on or before Tuesday,
19 August 21, 2018. In my show cause letter, I noted that "[i]f you fail to respond to this
20 request on or before August 21, 2018, I will assume that you no longer wish to move
21 forward with the cases and will dismiss the Amended Complaint." Having received no

1 response from Jansen to my August 7, 2018 show cause letter, I now assume that he
2 no longer wishes to move forward with the case and hereby dismiss the Amended
3 Complaint.

SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS



WILL EVANS, HEARING OFFICER

APPEAL RIGHTS

The parties are advised of their right, pursuant to M.G.L. c. 150E, Section 11, 456 CMR 13.19, to request a review of this decision by the Commonwealth Employment Relations Board by filing a Notice of Appeal with the Executive Secretary of the Department of Labor Relations not later than ten days after receiving notice of this decision. If a Notice of Appeal is not filed within the ten days, this decision shall become final and binding on the parties.