

CITY OF SPRINGFIELD AND NAGE, MCR-2146 (5/23/75). RULING ON MOTION TO DISMISS.

- (40 Selection of Employee Representative)
45.1 contract bar
45.4 timeliness of filing

RULING ON MOTION TO DISMISS

On February 14, 1975 the Labor Relations Commission ("Commission") received a petition filed by National Association of Government Employees ("Petitioner") seeking certification as the exclusive bargaining representative of certain employees of the City of Springfield employed by the Water Works Department. These employees are currently represented by the United Steelworkers ("Incumbent") who have an agreement with the City which expires June 30, 1975.

On April 16, 1975 a formal hearing was held at the Commission offices before Commissioner Madeline H. Miceli. The Incumbent moved to dismiss the petition as untimely filed.

Article 11, Section 5 (1) of the Rules and Regulations of the Commission provides:

"Except for good cause shown, no petition filed under the provisions of Section 4 of the Law during the term of an existing valid collective bargaining agreement shall be entertained unless such petition is filed no more than 180 days and no less than 150 days prior to the termination date of said agreement".

The issue before the Commission is simple. Does mailing or receipt at the Commission constitute "filing"? The Commission has determined that "filing" means receipt at the Commission offices. Petitioners can adequately protect their interests by making personal delivery, special delivery or registered mail services.

The month of January, 1975 was the open period for filing petitions seeking employees covered by the City and the Incumbent's contract. Accordingly the Petitioner has not timely filed and the petition should be dismissed unless good cause can be shown for waiving the contract bar rule.

The Petitioner contends that there exists good cause in this case to waive the contract bar rule claiming that the petition was mailed on January 28, 1975 in sufficient time to arrive within the open period. It argues that the resulting delay caused by the United States postal service should not operate to deny employees of their collective bargaining rights.

The Commission need not determine whether, in fact, the petition was mailed on January 28. The filing requirement is to be strictly construed and exceptions not lightly made. The purposes of the collective bargaining law are effectuated by providing all parties -- incumbents, petitioners, and employers included -- with a definite open period and refusing to investigate the operation of the U. S. postal service or the mailing procedures of petitioners.



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There being no good cause shown for waiving the contract bar rule, the petition is dismissed.

COMMONWEALTH OF MASSACHUSETTS
LABOR RELATIONS COMMISSION

