

STATE OF MONTANA
BEFORE THE BOARD OF PERSONNEL APPEALS

IN THE MATTER OF UNFAIR LABOR PRACTICE:

INTERNATIONAL BROTHERHOOD) Case No. 309-2021
OF ELECTRICAL WORKERS)
LOCAL #532,)
Complainant,)
vs.)) ORDER OF DISMISSAL
RICHLAND COUNTY,)
Defendant.)

* * * * *

On November 16, 2020, counsel for the Complainant filed a Motion to Dismiss, which indicated the parties have settled the above matter. Therefore, this matter is dismissed.

DATED this 19th day of November, 2020.

BOARD OF PERSONNEL APPEALS

By:



CHAD R. VANISKO
Hearing Officer

CERTIFICATE OF MAILING

The undersigned hereby certifies that true and correct copies of the foregoing document were, this day, served upon the parties or their attorneys of record by depositing them in the U.S. Mail, postage prepaid, and addressed as follows:

Vicki Nelson McDonald
Attorney at Law
1714 Forest Meadow Court
Billings, MT 59102

Matthew Baldassin
Attorney at Law
305 South 4th Street East, Suite 100
Missoula, MT 59801

DATED this 19th day of November, 2020.

Sandy Duncan

RICHLAND COUNTY.ORD

1 Vicki Nelson McDonald
2 McDONALD LAW FIRM, llc
3 1714 Forest Meadow Court
4 Billings, Montana 59102
5 Telephone (406) 534-3385

6
7 Attorney for Complainant
8
9

10 STATE OF MONTANA
11 BEFORE THE BOARD OF PERSONNEL APPEALS

12 IN THE MATTER OF UNFAIR LABOR PRACTICE:

13 INTERNATIONAL BROTHERHOOD OF
14 ELECTRICAL WORKERS LOCAL #532,

15 Complainant,

16 MOTION TO DISMISS

17 -vs-

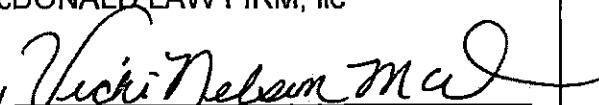
18 RICHLAND COUNTY.

19 Defendant.

20 The Complainant moves for dismissal of the above Unfair Labor Practice Charge,
21 all matters having been settled between the parties.

22 DATED this 16TH day of November, 2020.

23 McDONALD LAW FIRM, llc

24 By 
25 VICKI NELSON McDONALD
1714 Forest Meadow Court
Billings, Montana 59102

26 ATTORNEY FOR COMPLAINANT

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was duly served upon the following counsel of record by EMAIL this 16th day of November, 2020.

Matthew Baldassin
Crowley Fleck
305 South 4th Street East, Suite 100
Missoula, MT 59801
mbaldassin@crowleyfleck.com

Vicki Nelson McI

STATE OF MONTANA
BEFORE THE BOARD OF PERSONNEL APPEALS
IN THE MATTER OF UNFAIR LABOR PRACTICE:

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS LOCAL #532,

Complainant,

ORDER OF DISMISSAL

-VS-

RICHLAND COUNTY.

Defendant.

Upon motion of the Complainant, and good cause therefore, it is hereby ordered that the above Unfair Labor Practice Charge is dismissed, WITH PREJUDICE, each party to bear its own costs.

DATED this _____ day of _____, 2020.

BOARD OF PERSONNEL APPEALS

By:

CHAD R. VANISKO
Hearing Officer

cc: Vicki McDonald
Matt Baldassari

STATE OF MONTANA
BEFORE THE BOARD OF PERSONNEL APPEALS

IN THE MATTER OF UNFAIR LABOR PRACTICE:

INTERNATIONAL BROTHERHOOD) Case No. 309-2021
OF ELECTRICAL WORKERS)
LOCAL #532,)
)
Complainant,) ORDER RESETTING
) TELEPHONE CONFERENCE
vs.)
)
RICHLAND COUNTY,)
)
Defendant.)

* * * * * * * * * *

On November 3, 2020, counsel requested that the telephone conference set for November 4, 2020 be rescheduled as the parties continue to work towards settlement and wish to delay the scheduling conference. Therefore, to further help facilitate the parties' efforts to settle, the telephone pre-hearing conference is rescheduled to November 13, 2020 at 10:00 a.m., MST. No other scheduling conference continuances will be allowed.

Except as to the above change, all other information contained in the Notice of Hearing and Telephone Conference dated September 16, 2020 remains in effect.

DATED this 4th day of November, 2020.

BOARD OF PERSONNEL APPEALS

By:

CHAD R. VANISKO
Hearing Officer

CERTIFICATE OF MAILING

The undersigned hereby certifies that true and correct copies of the foregoing document were, this day, served upon the parties or their attorneys of record by depositing them in the U.S. Mail, postage prepaid, and addressed as follows:

Vicki Nelson McDonald
Attorney at Law
1714 Forest Meadow Court
Billings, MT 59102

Matthew Baldassin
Attorney at Law
305 South 4th Street East, Suite 100
Missoula, MT 59801

DATED this 4th day of November, 2020.

Sandy Duncan

RICHLAND COUNTY.NP4

STATE OF MONTANA
BEFORE THE BOARD OF PERSONNEL APPEALS

IN THE MATTER OF UNFAIR LABOR PRACTICE:

INTERNATIONAL BROTHERHOOD) Case No. 309-2021
OF ELECTRICAL WORKERS)
LOCAL #532,)
Complainant,) ORDER RESETTING
vs.) TELEPHONE CONFERENCE
RICHLAND COUNTY,)
Defendant.)

* * * * *

On October 19, 2020, counsel for the Defendant requested that the telephone conference set for October 22, 2020 be rescheduled as the parties continue to work towards settlement and wish to delay the scheduling conference. The Complainant has no objection to the continuance. Therefore, to further help facilitate the parties' efforts to settle, the telephone pre-hearing conference is rescheduled to November 4, 2020 at 10:00 a.m., MST.

Except as to the above change, all other information contained in the Notice of Hearing and Telephone Conference dated September 16, 2020 remains in effect.

DATED this 20th day of October, 2020.

BOARD OF PERSONNEL APPEALS

By:



CHAD R. VANISKO
Hearing Officer

CERTIFICATE OF MAILING

The undersigned hereby certifies that true and correct copies of the foregoing document were, this day, served upon the parties or their attorneys of record by depositing them in the U.S. Mail, postage prepaid, and addressed as follows:

Vicki Nelson McDonald
Attorney at Law
1714 Forest Meadow Court
Billings, MT 59102

Matthew Baldassin
Attorney at Law
305 South 4th Street East, Suite 100
Missoula, MT 59801

DATED this 20th day of October, 2020.

Sandy Duncan

RICHLAND COUNTY.NP3

Matthew Baldassin
CROWLEY FLECK PLLP
305 South 4th Street East, Suite 100
Missoula, MT 59801
406.523.3600
mbaldassin@crowleyfleck.com

Attorneys for Richland County

FILED

SEP 25 2020

**OFFICE OF ADMINISTRATIVE
HEARINGS**

**STATE OF MONTANA
BEFORE THE BOARD OF PERSONNEL APPEALS**

IN THE MATTER OF UNFAIR LABOR PRACTICE:

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS LOCAL #532,

Complainant,

RICHLAND COUNTY,

Defendant.

Case No. 309-2021

**RICHLAND COUNTY'S ANSWER TO
UNFAIR LABOR
PRACTICE CHARGE**

Defendant, Richland County, by and through its counsel of record, and for its Response to International Brotherhood of Electrical Workers Local #532's ("IBEW") Unfair Labor Practice Charge, dated August 10, 2020, states as follows:

1. The allegations within Complainant's "Details of Charge" are so general and vague it is impossible to determine what surveillance or retaliation is alleged. As a result, Richland County cannot ascertain what it is being accused of, what it must defend itself against, how to investigate Complainant's allegations, or what documents might support its position. Requiring a response under those circumstances is unreasonable and deprives Richland County of its right to due process.

2. To the extent a Response is deemed necessary, Richland County responds as follows:

- a. Richland County denies that it engaged in surveillance.
- b. Richland County denies that it created the impression of surveillance.
- c. Richland County denies that it retaliated against or coerced employees for engaging in protected concerted activities.
- d. Richland County respectfully reserves the right to supplement this Answer if further information is provided by the IBEW.

RESPECTFULLY SUBMITTED this 23rd day of September, 2020.

CROWLEY FLECK PLLP

By 
Matthew Baldassin
Attorney for Richland County

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was served upon the following counsel of record by the means designated below this 23rd day of September, 2020.

Rose Dumont

STATE OF MONTANA
BEFORE THE BOARD OF PERSONNEL APPEALS

IN THE MATTER OF UNFAIR LABOR PRACTICE:

INTERNATIONAL BROTHERHOOD) Case No. 309-2021
OF ELECTRICAL WORKERS)
LOCAL #532,)
Complainant,)
vs.)
RICHLAND COUNTY,)
Defendant.)
ORDER RESETTING
TELEPHONE CONFERENCE

* * * * * * * * * *

On September 24, 2020, the hearing officer contacted the parties for a telephone pre-hearing conference to set the above matter for hearing. At that conference, the parties indicated they had been in discussions, were very close to settling the matter, wished to delay the scheduling conference, and agreed to waive any applicable timeframes for setting a hearing. To help facilitate the parties' efforts to settle, and at the stipulation of the parties, the hearing officer rescheduled the pre-hearing conference to October 22, 2020 at 10:00 a.m., MDT.

Except as to the above change, all other information contained in the Notice of Hearing and Telephone Conference dated September 16, 2020 remains in effect.

DATED this 24th day of September, 2020.

BOARD OF PERSONNEL APPEALS

By: 

CERTIFICATE OF MAILING

The undersigned hereby certifies that true and correct copies of the foregoing document were, this day, served upon the parties or their attorneys of record by depositing them in the U.S. Mail, postage prepaid, and addressed as follows:

Vicki Nelson McDonald
Attorney at Law
1714 Forest Meadow Court
Billings, MT 59102

Matthew Baldassin
Attorney at Law
305 South 4th Street East, Suite 100
Missoula, MT 59801

DATED this 24th day of September, 2020.

Sandy Duncan

OAH - Filed 9/22/2020 (Email)

1 Vicki Nelson McDonald
2 McDONALD LAW FIRM, llc
3 1714 Forest Meadow Court
4 Billings, Montana 59102
5 Telephone (406) 534-3385
6 vmcdonaldlawfirm@gmail.com

7 Attorney for Complainant

8
9
10 STATE OF MONTANA
11 BEFORE THE BOARD OF PERSONNEL APPEALS

12 IN THE MATTER OF UNFAIR LABOR PRACTICE:

13 INTERNATIONAL BROTHERHOOD OF
14 ELECTRICAL WORKERS LOCAL #532.,

15 Case No. 309-2021

16 Complainant,

17 **NOTICE OF APPEARANCE**

18 -vs-

19 RICHLAND COUNTY,

20 Defendant.

21 Vicki Nelson McDonald of the McDonald Law Firm, llc hereby gives notice of her
22 appearance as counsel of record for the Complainant International Brotherhood of Electrical
23 Workers Local #532. All future pleadings and correspondence should be directed to said
24 counsel.

25 DATED this 22nd day of September 2020.

McDONALD LAW FIRM, llc

26 By Vicki Nelson McDonald
27 VICKI NELSON McDONALD
28 1714 Forest Meadow Court
29 Billings, Montana 59102

30 ATTORNEY FOR COMPLAINANT

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2
3 **CERTIFICATE OF SERVICE**
4

5 I hereby certify that a true and accurate copy of the foregoing was duly served upon
6 the following by email this 22nd day of September, 2020.
7

8 Matthew Baldassin
9 Crowley Fleck
10 305 South 4th Street East, Suite 100
11 Missoula, MT 59801
12 mbaldassin@crowleyfleck.com
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25

10 Vicki Nelson McDonald

STATE OF MONTANA
BEFORE THE BOARD OF PERSONNEL APPEALS

IN THE MATTER OF UNFAIR LABOR PRACTICE:

INTERNATIONAL BROTHERHOOD) Case No. 309-2021
OF ELECTRICAL WORKERS)
LOCAL #532,)

Complainant,) NOTICE OF HEARING AND
) TELEPHONE CONFERENCE

vs.

RICHLAND COUNTY.

Defendant.

* * * * *

The Board of Personnel Appeals has completed its investigation in this case and found probable merit. The Board therefore ORDERS:

I. APPOINTMENT OF HEARING OFFICER. Chad R. Vanisko is appointed Hearing Officer. In accordance with Mont. Code Ann. § 39-31-405(5), each party may file with the Board, within 5 days of receipt of this Order, a written request to disqualify the appointed Hearing Officer. If either party exercises the right of disqualification, the Board will appoint another Hearing Officer.

All correspondence in the case should be directed to: Chad R. Vanisko, Office of Administrative Hearings (OAH), Department of Labor and Industry, P.O. Box 1728, Helena, Montana 59624-1728. Questions about the hearing process can be directed to Sandy Duncan, Legal Secretary, at (406) 444-9583, or by email at sduncan@mt.gov.

2. **ISSUE.** The issue in this case is whether Richland County committed unfair labor practices in violation of Mont. Code Ann. § 39-31-401, as alleged in the complaint filed by the International Brotherhood of Electrical Workers Local #532.

3. **TELEPHONE CONFERENCE.** The Hearing Officer will conduct a telephone conference in this matter on September 24, 2020 at 10:00 a.m., MDT. The Hearing Officer will initiate the conference by calling:

Vicki McDonald
(Attorney for Complainant) Telephone # (406) 534-3385

Matthew Baldassin Telephone # (406) 523-3600
(Attorney for Defendant)

YOU MUST NOTIFY THE OFFICE OF ADMINISTRATIVE HEARINGS (OAH) IMMEDIATELY IF ANY TELEPHONE NUMBER IS INCORRECT, HAS BEEN CHANGED, OR IS LISTED AS "UNKNOWN."

The purpose of the conference is to set the dates for the hearing and establish a schedule for hearing preparation. If a party does not attend the conference, the hearing schedule will be set without that party's participation. A party's failure to appear for any conference, and/or failure to obey orders issued by the Hearing Officer, may result in sanctions against that party that can include entry of default, dismissal of an appeal, imposition of liability or other appropriate sanctions.

4. **ANSWER.** Admin. R. Mont. 24.26.681 provides, in pertinent parts, as follows:

(1) The party named in the complaint shall file a formal, written verified answer within 10 days after service of the notice of finding of probable merit. (3) The answer shall include a specific admission, denial, or explanation of each allegation in the complaint. (4) If the party charged fails to file a timely answer, the board may consider it an admission of material facts and waiver of a hearing.

IF the defendant has not timely filed such an answer in this case, it must serve and file its answer (see p. 1 of this notice, No. 1, second paragraph, for filing specifics) by close of business on the 10th business day (see Admin R. Mont. 24.26.206(1)) after the date of issuance of this notice, or the Hearing Officer will consider the failure an admission by the defendant of the material facts in the complaint and a waiver of hearing.

5. **HEARING AUTHORITY.** The Board's authority to conduct the hearing is Mont. Code Ann. § 39-31-406. The Hearing Officer will conduct the hearing in accordance with the Montana Administrative Procedure Act, Mont. Code Ann. Title 2, Chapter 4, Part 6. The purpose of the hearing will be to determine the validity of the unfair labor practice charge.

The hearing will afford the parties a full opportunity to present evidence relevant to the issue or issues to be determined, present their arguments on all issues

of the law and examine and cross examine witnesses. All formal hearing testimony will be taken under oath or affirmation and recorded. The formal hearing may be waived pursuant to Mont. Code Ann. § 2-4-603.

The hearing is a public proceeding, and the record of the hearing and the decision are public records. If a hearing participant intends to place into evidence testimony or documents which should not be part of the public record for privacy or confidentiality reasons, the party requesting non-disclosure must ask the Hearing Officer that the evidence be sealed. Once evidence is made part of the public record, it cannot thereafter be withdrawn from the record and sealed from the public.

6. RIGHT TO LEGAL COUNSEL. Each party has the right to be represented by an attorney. Individuals are not required to be represented by an attorney. Corporations, partnerships, limited liability companies (LLCs), and similar entities are required to be represented by an attorney pursuant to Admin. R. Mont. 1.3.231(2). Any party that is represented by an attorney must hire and pay for that counsel.

7. REASONABLE ACCOMMODATION. Individuals with disabilities requiring accommodation in order to participate in this hearing should contact the Office of Administrative Hearings (OAH) at least two weeks prior to the hearing to permit sufficient time to arrange for the requested accommodation. In particular, please note that we will attempt to relocate an in-person hearing to permit participation by individuals with mobility impairments. We will also arrange in-person hearings in lieu of telephone hearings to accommodate individuals with hearing impairments. Please contact Sandy Duncan or TTY (406) 444-0532/Relay Service (800) 253-4093 if your participation will require an accommodation.

DATED this 16th day of September, 2020.

BOARD OF PERSONNEL APPEALS

By:



David A. Scrimm, Chief ALJ
Office of Administrative Hearings
Department of Labor and Industry

* * * * *

CERTIFICATE OF MAILING

The undersigned hereby certifies that true and correct copies of the foregoing document were, this day, served upon the parties or their attorneys of record by depositing them in the U.S. Mail, postage prepaid, and addressed as follows:

Keith Allen
IBEW Local #532
P.O. Box 4515
Helena, MT 59604

Matthew Baldassin
Attorney at Law
305 South 4th Street East, Suite 100
Missoula, MT 59801

DATED this 16th day of September, 2020.

Sandy Duncan