



CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

PHILIP T. ROBERTS
DIRECTOR

THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS

CHARLES F. HURLEY BUILDING
19 STANIFORD STREET
1ST FLOOR, BOSTON, MA 02114
PHONE: (617) 626-7132
FAX: (617) 626-7157
efile.dlr@mass.gov
www.mass.gov/dlr

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EMPLOYMENT
RELATIONS BOARD
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April 19, 2019

Ferruccio Romeo
9 Hitching Hill Road
Saugus, MA 01906

Re: MUP-19-7261, Town of Winthrop

Dear Mr. Romeo:

On April 11, 2019, you filed a charge of prohibited practice with the Department of Labor Relations (DLR) alleging that the Town of Winthrop (Town) had violated Section 10(a)(5) and, derivatively, 10(a)(1) of M.G.L. c.150E (the Law). The DLR has reviewed and docketed the charge. The DLR has not directed an investigation into the charge because you, as an individual, may not have legal standing to file it.

You stated in your charge that the Town has refused to schedule negotiation sessions or bargain with MassCOP, Local 21 (Union) over a successor collective bargaining agreement. The charge further alleges that the Town gave the Union president a Memorandum of Agreement for the bargaining unit members to vote on that changed the unit members' contractual benefits. There is no allegation in the charge that the Town took adverse action against you or any bargaining unit member in retaliation for engaging in protected, concerted activity, nor did you allege that the Town interfered with, restrained or coerced you in the exercise of any right to engage in protected, concerted activity. Thus, your charge appears to only allege that the Town failed to bargain in good faith with the Union.

Individual employees do not have legal standing to claim that an employer has failed to bargain by unilaterally changing terms and conditions of employment or by refusing to bargain a successor collective bargaining agreement. The union and the employer are the only entities that can bring bad faith bargaining charges because they are the only parties in the bargaining relationship. Individual employees have no standing to file a charge against an employer for failing to bargain in good faith because the employee is not a party to the bargaining relationship. Quincy City Employees Union, H.L.P.E., 15 MLC

1340, 1355 (1989), aff'd sub. nom. Pattison v. Labor Relations Commission, 309 Mass. App. Ct. 9 (1991), further rev. den'd, 409 Mass. 1104 (1991). Consequently, the DLR will not investigate your charge if it only alleges a violation of Section 10(a)(5), and derivatively, Section 10(a)(1) of the Law.

If you are alleging that the Town violated any other part of Section 10 of the Law, you must file an amended charge that clarifies any other allegations that you are making. If you are not alleging that the Town violated any other part of Section 10 of the Law, then you must show cause, in writing, why the DLR should not dismiss your charge with prejudice without an investigation. Additionally, please note that the Union may file a charge raising the same allegations that you have included in your charge, as it would have legal standing to do so.

Any show cause response and/or amended charge that you may wish to submit must be efiled to the DLR at efile.DLR@mass.gov by the close of business on April 26, 2019. If you do not efile an amended charge or a show cause response on or before April 26, 2019, the DLR will dismiss this charge with prejudice without an investigation.

Very truly yours,
DEPARTMENT OF LABOR RELATIONS


Philip T. Roberts
Director

CC: Howard Greenspan, Esq.
Austin Faison