



Bureau of Mediation Services

STATE OF MINNESOTA

**IN THE MATTER OF A PETITION FOR
DETERMINATION OF AN APPROPRIATE UNIT
AND CERTIFICATION AS EXCLUSIVE
REPRESENTATIVE**

October 31, 2016

Service Employees International Union, Local 284, South St. Paul, Minnesota

- and -

University of Minnesota, Unit 8, Minneapolis, Minnesota

BMS Case No. 16PCE0644

RULING ON REQUEST FOR STAY PENDING APPEAL

INTRODUCTION

On January 20, 2016, the State of Minnesota, Bureau of Mediation Services (Bureau), received a petition filed by Service Employees International Union, Local 284, South St. Paul, Minnesota (Union or SEIU).. The petition requested determination of an appropriate unit and certification as exclusive representative for certain employees of the University of Minnesota, Unit 8, Minneapolis, Minnesota (University or Employer). On September 20, 2016 following thirteen days of hearing and extensive briefing, the Bureau issued an Order concerning of interest of the employees in question (Order). On October 17, 2016, the University filed a Writ of Certiorari with the Minnesota Court of Appeals (Court of Appeals - Civil/Certiorari Case No. A16-1666.) Also on October 17, 2016, they filed a Request for Stay Pending Appeal (Request). On October 26, 2016, SEIU filed a response to the Request.

ISSUE

Shall the Bureau grant a Stay of proceedings in this case pending a ruling by the Court on the University?

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DISCUSSION

The issues in this case have not yet been finally determined. The September 20, 2016 Order is merely one step in determining the appropriate unit questions raised by the Petition. Still to be determined, among other issues are:

- 1) Which of the individual employees holding classifications included in the appropriate unit are public employees under PELRA?
- 2) Which employees holding classifications included in the appropriate unit must be excluded as supervisory?
- 3) What is the payroll cut-off date for voter eligibility?
- 4) Has SEIU submitted a sufficient showing of interest to support the conduct of a representation election?
- 5) If the answer to issue 4 is yes, the Bureau must determine the voting method and rules;
- 6) Do a majority of employees falling within the appropriate unit wish to be represented by SEIU?

For these reasons and others, the Court Appeal of the University is, in our opinion premature, and may well be rendered moot by further proceedings in the case.

Further, as we have stated previously,

Insuring that representation proceedings occur in a timely fashion is key to executing the public policy embedded in the Public Employment Labor Relations Act (PELRA) at Minn. Stat. § 179A.01 (c)(1) “granting public employees certain rights to organize and choose freely their representatives”. Lengthy delays between the filing of a petition for a representation election and the opportunity for employees to cast ballots is inimical to the policy cited above...It is highly possible that such a long delay may affect the outcome of the election. Thus, we conclude that if a stay pending appeal is granted, and the University does not prevail, it is very likely that SEIU will not be “secure in victory.” (Ruling on Request for Stay, BMS Case No. 16-PCE-0644, p. 2-3 (April 4, 2016)).

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Therefore a Stay will not be granted.

ORDER

The Request for Stay Pending Appeal is denied.

BUREAU OF MEDIATION SERVICES
STATE OF MINNESOTA

JOSH L. TILSEN
Commissioner

A handwritten signature in black ink that reads "Jill Kielblock". The signature is written in a cursive, flowing style.

JILL KIELBLOCK
Hearing Officer

cc: Kathy Brown
Brenden Cummins
Patti Dion
Liz Engels
Karen Schanfield
Keri Seime
Shelley Carthen Watson