PUBLIC EMPLOYEES RELATIONS BOARD
STATE OF OKLAHOMA

JEREMY RONSPIEZ and CITY OF PERKINS, Complainants, vs. FRATERNAL ORDER OF POLICE, LODGE 142, Respondent.	)))))))))))	Case No. 12390 PD

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

NOW on this 3rd day of March, 2003, there comes before the Oklahoma Public Employees Relations Board (the "Board") the above-styled and numbered administrative action. The Complainants, Jeremy Ronspiez ("Ronspiez") and the City of Perkins ("City"), are represented by their attorney of record, Matthew S. Devlin. The Fraternal Order of Police, Lodge 142, ("Union") is represented by its attorney of record, Douglas D. Vernier. The parties, through counsel, presented oral argument and requested the Board render its decision based upon the written exhibits and memorandum briefs. The Board, having received the briefs and exhibits of the parties and otherwise being fully briefed on the facts and matters alleged, makes the following determination regarding findings of fact and conclusions of law and issues its Final Order.

Findings of Fact

1. The Union and the City were, at all times relevant to this cause, parties to a collective bargaining agreement ("CBA"), pursuant to the authority of the Oklahoma Fire and Police Arbitration Act ("FPAA") with a stated expiration date of June 30, 2003.

2. Complainant Ronspiez is a police officer employed by the City of Perkins, Oklahoma.

3. Complainant Ronspiez is not a member of the Respondent Union.

4. On the 2nd day of January, 2003, Complainant Ronspiez filed a Petition with the Public Employees Relations Board (PERB) requesting that an election be held for the purpose of decertification of the Union as the exclusive employee representative for the Perkins Police Department.

5. The Petition for decertification was filed 179 days prior to the stated expiration of the CBA.

Conclusions of Law

1. This matter is governed by the provisions of the Fire and Police Arbitration Act ("FPAA"), 11 O.S. 2001, §§ 51-101, et seq., and the Board has jurisdiction to rule on this unfair labor practice charge.

2. The hearing and procedures herein are governed by Article II of the Oklahoma Administrative Procedures Act, 75 O.S. 2001, §§ 308, et seq.

3. The Board is empowered to investigate, provide a hearing and decide a question of representation of police officers by a collective bargaining agent . 11 O.S. 2001, § 51-103.

4. The Board shall conduct no representation election on a petition for decertification which is filed less than one hundred eighty (180) days prior to the stated expiration date of a valid CBA. OAC: 585-3-2(3).

5. The requirement that a petition for decertification be filed not less than 180 days, nor more than two hundred forty (240) days, prior to the stated expiration date of a CBA is not subject to the computation of time rule which allows an act to be performed on the next regular

business day when the last day for performance of the act falls on a legal holiday. OAC: 585-15-1-8.

6. The Petition for decertification filed 179 days prior to the stated expiration date of the CBA is time barred. The PERB has no authority to conduct a representative election.

ORDER

The requirement that a petition for decertification must be filed "not less than one hundred eighty (180) days nor more than two hundred forty (240) days prior to the stated expiration date" of a CBA reflects a mandatory time established by the PERB. OAC: 585-3-2(3). This provision is coordinated with a limitation on the time in which the election may be conducted subsequent to a timely filing of a petition "not more than one hundred eighty (180) nor less than one hundred fifty (150) days prior to the expiration of the collective bargaining agreement." OAC: 585:15-3-2(3). This is the type of distinct procedure which has been found to be excluded from a general computation of time statute in the Oklahoma pleading code. In the case of a 45-day period to obtain signatures to convene a grand jury, the Oklahoma court refused to apply the general computation of time statute to allow an extension of time. *In re Grand Jury: Wilder,* 2000 OK CIV APP 7, 996 P.2d 951. Complainants argue that OAC: 585:15-1-8 allows the filing of a petition the day after a holiday, in this case New Year's Day. This interpretation would conflict with the specific 180-day time limitation mandated by OAC: 585:15-3-2(3). It is a long-standing rule of construction that where two provisions conflict, one of which is special and clearly includes the matter in controversy, and prescribes different procedures from those in a general rule, the special rule and not the general rule applies. *Southwestern Bell Telephone Co. v. Oklahoma County Excise Bd.,* 1980 OK 97, 618

P.2d 915. In the instant cause, the 180-day limitation applies specifically to the mandatory bar on filing petitions for decertification. The general rule allowing an extension of time does not apply.

IT IS THEREFORE THE ORDER of the Public Employees Relations Board that the Union's Motion to Dismiss the Petition for Decertification filed by the Complainants less than 180 days prior to the expiration date of the CBA, in violation of OAC: 585:15-3-2(3), is hereby GRANTED.

Craig W. Hoster

Craig W. Hoster, Chair
Public Employees Relations Board

Dated this 1st day of May, 2003