

**BEFORE THE PUBLIC EMPLOYEES RELATIONS BOARD  
STATE OF OKLAHOMA**

**FILED**

SEP 17 2010

Public Employees Relations  
Board

International Association of Fire Fighters,	)	
Local 2551,	)	
Complainant,	)	
	)	
v.	)	Case 2010-ULPC-487
	)	
City of Broken Arrow,	)	
	)	
Respondent.	)	

**FINAL ORDER GRANTING CITY OF BROKEN ARROW'S MOTION FOR SUMMARY  
JUDGMENT AND DISMISSING UNFAIR LABOR PRACTICE CHARGE**

This matter was heard before the Public Employees Relations Board ("Board") on June 10, 2010 on Motion for Summary Judgment by Respondent, City of Broken Arrow, Oklahoma ("City").

Complainant, International Association of Fire Fighters, Local 2551 ("Local 2551") appeared through its attorney, Steven R. Hickman. Broken Arrow appeared through its attorney, Charles S. Plumb.

Local 2551 brought the unfair labor practice action alleging that the City has attempted to interfere with the rights of the members of Local 2551 to administer their organization and to select the members of their Bargaining Agent; management has also unilaterally changed working conditions without negotiating by changing the prevailing right of Union Ballots being collected while the Trustee is on duty which constituted an unfair labor practice (ULP) in violation of 11 O.S. 2001 §51-102(6a)(1)(2)(3)(5).

**FINDINGS OF FACT**

Based upon the statements filed in support of and in opposition to the motion, the Board

finds that there is no substantial controversy as to the following material facts or issues:

1. An IAFF election was held from December 9, 2009 through December 18, 2009. (Thompson Aff. ¶4).
2. Stanley Spradlin (“Spradlin”) was one of three Trustees charged with collecting ballots during the election. (Spradlin Depo. p. 6).
3. Spradlin is one of only two Fire Investigators charged with entering data into the Harvard Technical Enterprises (“HTE”) Project which was scheduled from November 2009 until April 2010; the project was behind schedule on December 15. (Spradlin Depo. pp. 12-15).
4. Spradlin was assigned to work December 15, 2009 and because of work responsibilities was instructed to refrain from collecting ballots until after 5 p.m. (Jarrett Aff. ¶7).
5. On December 15, 2009 there were two other Trustees charged with collecting ballots and available during Spradlin’s partial-shift restriction. (Spradlin Depo. p. 6).
6. On December 15, 2009, Spradlin had the following scheduled events (Jarrett Aff. ¶¶5,6) :
  - a. a meeting with the city attorney and insurance company’s attorney regarding a fire subrogation case in which Spradlin investigated the fire.
  - b. several fire inspections
  - c. work on the HTE Project
7. During the partial-shift restriction, a retiree drove from out of town and presented himself to the Marshal’s office and requested to cast his ballot whereby the Marshal instructed Spradlin to collect said ballot. (Thompson Aff. ¶7).
8. The partial-shift restriction on Spradlin and the collection of the retiree ballot did not affect the outcome of the election. (Spradlin Depo. p. 53).

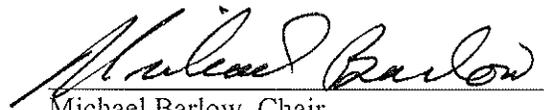
### CONCLUSIONS OF LAW

1. This matter is governed by the provisions of the Fire and Police Arbitration Act ("FPAA"), 11 O.S. 2001, Supp. 2009, §§ 51-101, *et seq.*, and the Board has jurisdiction over the parties and subject matter of this complaint pursuant to 11 O.S. 2001, § 51-104b.
2. The hearing and procedures herein are governed by Article II of the Oklahoma Administrative Procedures Act, 75 O.S. 2001, Supp 2009 §§ 308a, *et seq.*
3. The Board is empowered to prevent any person, including corporate authorities, from engaging in any unfair labor practice. 11 O.S. 2001, § 51-104b(A).
4. "Summary judgment is appropriate only where it appears that there is no substantial controversy as to any material fact and that one party is entitled to judgment as a matter of law." *Post Oak Oil Co. v. Stack & Barnes, P. C.*, 1996 OK 23, ¶15, 913 P.2d 1311,1313.
5. While the City's conduct may have interfered with Union activities, the conduct was *de minimus*; that is, there was no substantial controversy as to any material facts which would show that the City's conduct rose to the level of bad faith conduct as required for an unfair labor practice. (*NLRB v. Hood Furniture Mfg Co.*, 941 F.2d 325, 329, 332 (1991) ).
6. Because no substantial controversy exists as to any material fact and the City is entitled to judgment as a matter of law, the City's Motion for Summary Judgment is GRANTED.

### FINAL ORDER

Because the City's Motion for Summary Judgment is granted, it is hereby ORDERED that the charge that the City committed an unfair labor practice is hereby DISMISSED with prejudice to refiling.

Dated: 9-17-10

A handwritten signature in cursive script, reading "Michael Barlow", written over a horizontal line.

Michael Barlow, Chair  
Public Employees Relations Board