



**FEDERAL LABOR RELATIONS AUTHORITY**  
Office of Administrative Law Judges  
WASHINGTON, D.C. 20424

OALJ 18-06

DEPARTMENT OF ARMY  
INSTALLATION COMMAND ATLANTIC  
ABERDEEN PROVING GROUND

RESPONDENT

AND

NATIONAL FEDERATION OF FEDERAL  
EMPLOYEES, LOCAL 178, IAMAW, AFL-CIO

CHARGING PARTY

Case No. WA-CA-17-0383

Sarah J. Kurfis  
For the General Counsel

Cynthia L. Brown  
For the Respondent

Lisa Foust  
For the Charging Party

Before: CHARLES R. CENTER  
Administrative Law Judge

**DECISION ON MOTION FOR SUMMARY JUDGMENT**

On September 29, 2017, the Regional Director of the Washington Region of the Federal Labor Relations Authority (FLRA/Authority) issued a Complaint and Notice of Hearing, alleging that the Department of Army, Installation Command Atlantic, Aberdeen Proving Ground (Agency/Respondent), violated § 7116(a)(1) and (5) of the Federal Service Labor-Management Relations Statute (Statute). The Complaint alleged that the Respondent failed and refused to comply with § 7114(b)(4) of the Statute when it did not respond to a request for information made by the National Federation of Federal Employees, Local 178, IAMAW, AFL-CIO (Union/Local).

The Complaint advised the Respondent that an Answer was due no later than October 24, 2017. The Complaint was served by certified mail on the Respondent's agent, Cynthia L. Brown, L/MER Branch 4 Chief, APG Civilian Personnel Advisory Center, 4504 Springfield Street, Room 316, Aberdeen Proving Ground, MD 21005. GC Ex. 1. The Respondent failed to file an Answer by the required date.

On November 6, 2017, the General Counsel (GC) filed a Motion for Summary Judgment based upon the Respondent's failure to file an Answer to the Complaint, contending that by application of 5 C.F.R. § 2423.20(b), the Respondent admitted all of the allegations set forth therein. The GC contends that there are no factual or legal issues in dispute and summary judgment pursuant to 5 C.F.R. § 2423.27(a) is proper. The Respondent did not file a response to the motion for summary judgment. As I have determined that summary judgment in this matter is proper, the hearing scheduled for December 13, 2017, is cancelled.

### **DISCUSSION OF MOTION FOR SUMMARY JUDGMENT**

Section 2423.20(b) of the Authority's Rules and Regulations provides, in relevant part:

(b) *Answer*. Within 20 days after the date of service of the complaint . . . the Respondent shall file and serve . . . an answer with the Office of Administrative Law Judges. Absent a showing of good cause to the contrary, failure to file an answer or respond to any allegation shall constitute an admission.

Within the Complaint, the Regional Director included detailed instructions on the requirements for filing an Answer, including the number of copies that needed to be filed, the date the Answer needed to be filed, and the means of submission. The fact that there was a section in the Complaint devoted to the Answer requirement leaves no doubt that filing an Answer was necessary.

Although evidence in the record demonstrates that the Respondent received the Complaint and Notice on October 4, 2017, and despite the detailed instructions set forth therein, the Respondent did not file an Answer. GC Ex. 2. While § 2429.23 of the Authority's regulations permit extensions or waivers of time limits, the Respondent did not present good cause for an extension or extraordinary circumstance for a waiver of the failure to file a timely Answer, nor did the Respondent file a response to the motion for summary judgment.

Therefore, based upon the existing record, I make the following findings of fact, conclusions of law, and recommendations.

### FINDINGS OF FACT

1. The Union filed the unfair labor practice charge on June 20, 2017, and a copy was served on the Respondent.
2. The Respondent is an agency within the meaning of § 7103(a)(3) of the Statute.
3. The Union is a labor organization within the meaning of 5 U.S.C. § 7103(a)(4) of the Statute and is the certified exclusive representative of units of employees at the Respondent.
4. At all material times, the following individual held the position opposite her name and was a supervisor or management official within the meaning of § 7103(a)(10) and (11) of the Statute and an agent of the Respondent acting on its behalf:  
  
Cynthia Brown      Chief, Labor-Management Employee Relations Branch 4
5. On June 1, 2017, the Union requested by email that the Respondent furnish the following information: (1) names of employees incorrectly given a wrong Fair Labor Standards Act (FLSA) code in the Respondent's system, and (2) the employee's current FLSA code and any new FLSA code assigned.
6. To date, the Respondent failed to respond to the Union's request for information described in paragraph 5.
7. By the conduct described in paragraph 6, the Respondent failed and refused to comply with § 7114(b)(4) of the Statute.
8. By the conduct described in paragraphs 6 and 7, the Respondent failed and refused to negotiate in good faith with the Union and violated § 7116(a)(1), (5) and (8) of the Statute.

### CONCLUSIONS OF LAW

Pursuant to the admission provision of 5 C.F.R. § 2423.20(b), the Respondent's failure to file an Answer constitutes an admission of the allegations set forth in the Complaint. *Dep't of VA Med. Ctr., Asheville, N.C.*, 51 FLRA 1572, 1594 (1996). Therefore, the Respondent admitted the facts and violations alleged in the Complaint. Accordingly, the General Counsel's Motion for Summary Judgment is Granted.

As a remedy, the Respondent is ordered to cease and desist from failing to respond to information requests filed by the Union and the Respondent must respond to the information request made by the Union on June 1, 2017. The Respondent must post a notice of this violation for sixty consecutive days and distribute the notice to bargaining unit employees by

email or other electronic media customarily used to communicate with bargaining unit employees. The Respondent must also notify the Regional Director of the implementation of the order.

### **ORDER**

Pursuant to § 2423.41(c) of the Rules and Regulations of the Authority and § 7118 of the Federal Service Labor-Management Relations Statute (Statute), the Department of Army, Installation Command Atlantic, Aberdeen Proving Ground, shall:

1. Cease and desist from:

(a) Failing to respond to information requests filed by the National Federation of Federal Employees, Local 178, IAMAW, AFL-CIO (Union).

(b) In any like or related manner, interfering with, restraining, or coercing bargaining unit employees in the exercise of their rights under the Statute.

2. Take the following affirmative actions in order to effectuate the purposes and policies of the Statute:

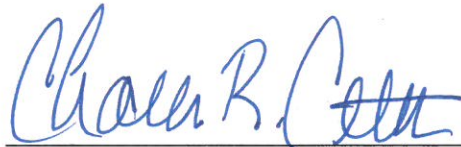
(a) Respond to the information request made by the Union on June 1, 2017.

(b) Post at its facilities where bargaining unit employees represented by the Union are located, copies of the attached Notice on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms, they shall be signed by the Director, Aberdeen Proving Ground Civilian Personnel Advisory Center, and shall be posted and maintained for sixty (60) consecutive days thereafter, in conspicuous places, including all bulletin boards and other places where notices to employees are customarily posted. Reasonable steps shall be taken to ensure that such Notices are not altered, defaced, or covered by any other material.

(c) On the same date the Notice is physically posted, it must be disseminated to all bargaining unit employees by email or other electronic media customarily used to communicate with bargaining unit employees.

(d) Pursuant to § 2423.41(e) of the Rules and Regulations of the Authority, notify the Regional Director, Washington Region, Federal Labor Relations Authority, in writing, within thirty (30) days from the date of this Order, as to what steps have been taken to comply.

Issued, November 28, 2017, Washington, D.C.



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CHARLES R. CENTER  
Administrative Law Judge

**NOTICE TO ALL EMPLOYEES**  
**POSTED BY ORDER OF THE**  
**FEDERAL LABOR RELATIONS AUTHORITY**

The Federal Labor Relations Authority has found that the Department of Army, Installation Command Atlantic, Aberdeen Proving Ground, violated the Federal Service Labor-Management Relations Statute (Statute), and has ordered us to post and abide by this Notice.

**WE HEREBY NOTIFY OUR EMPLOYEES THAT:**

**WE WILL NOT** fail to respond to information requests filed by the National Federation of Federal Employees, Local 178, IAMAW, AFL-CIO (Union).

**WE WILL NOT** in any like or related manner, interfere with, restrain, or coerce bargaining unit employees in the exercise of their rights under the Statute.

**WE WILL** respond to the information request made by the Union on June 1, 2017.

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Director, Aberdeen Proving Ground  
Civilian Personnel Advisory Center

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
(Signature) (Title)

This Notice must remain posted for sixty (60) consecutive days from the date of posting and must not be altered, defaced, or covered by any other material.

If employees have any questions concerning this Notice or compliance with its provisions, they may communicate directly with the Regional Director, Washington Region, Federal Labor Relations Authority, whose address is: 1400 K Street, N.W., 2nd Fl., Washington, D.C. 20424, and whose telephone number is: (202) 357-6029.