

**BEFORE THE MERIT EMPLOYEE RELATIONS BOARD
OF THE STATE OF DELAWARE**

DAVID GOMEZ, LISA HUDSON-BLUTO, AND)	
DAVID JOHNSON,)	
)	DOCKET Nos. 23-12-907
Employees/Grievants,)	23-12-908
)	23-12-909
v.)	
)	
DELAWARE DEPARTMENT OF CORRECTION,)	INTERIM DECISION GRANTING
PROBATION & PAROLE AND THE)	GRIEVANTS' MOTION TO
DEPARTMENT OF HUMAN RESOURCES,)	STRIKE
)	
Employer/Respondent.)	

After due notice of time and place, this matter came to a hearing before the Merit Employee Relations Board (the “Board”) on September 4, 2024 in the Delaware Public Service Commission Hearing Room, Silver Lake Plaza, Cannon Bldg., 1st Floor, 861 Silver Lake Boulevard, Dover, DE 19904. The hearing was open to the public.

BEFORE Jennifer Cohan, Chairperson; Joseph A. Pika, III, PhD, and Lester E. Johnson, Jr., Members; a quorum of the Board under 29 *Del. C.* §5908(a).

APPEARANCES

Victoria R. Sweeney
Deputy Attorney General
Legal Counsel to the Board

Deborah L. Murray-Sheppard
Board Administrator

Anthony Delcollo, Esq.
Offit Kurman
Counsel to the Grievants

Michael H. Tipton
Deputy Attorney General
Counsel to the Dept. of Correction

Adria Martinelli, Esq.
Deputy Attorney General
Counsel to the Dept. of Human Resources

BACKGROUND

David Gomez, Lisa Hudson-Bluto, and David Johnson (collectively, the “Grievants”) filed individual grievances against the Delaware Department of Correction, Probation & Parole (the “Agency”), alleging that they were improperly compensated for hours they were required to work beyond their regular schedule, in violation of Merit Rule (“MR”) 4 and the Fair Labor Standards Act (“FLSA”, 29 *CFR* 541). By Interim Decision dated April 8, 2024, this Board directed the Department of Human Resources be joined as a party to these grievances and that the grievances be scheduled for a hearing on the merits.

The Board convened on September 4, 2024, to hear the grievances. It considered, as a preliminary matter, the Grievants’ Motion to Strike the Step 3 Grievance Decision issued by the Department of Human Resources in December 2023.

After reviewing and considering the parties’ legal arguments, the Board granted the Grievants’ Motion to Strike the Step 3 grievance decision. The Department of Human Resources was directed to convene and complete a new Step 3 hearing within sixty (60) days.

DECISION AND ORDER

It is this **10th** day of **September 2024**, by a vote of 3-0, the Decision and Order of the Board to grant the Grievants’ preliminary Motion to Strike the Step 3 grievance decision. The Board further directs Department of Human Resources to convene and complete a new Step 3 hearing.

The parties are directed to notify the Board within sixty (60) days that the Step 3 hearing has been conducted and that a decision has been issued. Thereafter, the Board will again convene a hearing on the merits of these grievances.



JENNIFER COHAN, MERB Chairperson



JOSEPH A. PIKA, III, PH.D., MEMBER

Lester E. Johnson Jr.
LESTER E. JOHNSON, JR., MERB Member