

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

FRATERNAL ORDER OF POLICE :
SCHUYLKILL-CARBON LODGE NO. 13 :
 :
v. : CASE NO. PF-C-24-104-E
 :
LANSFORD BOROUGH :

PROPOSED DECISION AND ORDER

On December 19, 2024, the Fraternal Order of Police, Schuylkill-Carbon Lodge No. 13 (Union or FOP) filed a charge of unfair labor practices with the Pennsylvania Labor Relations Board (Board) alleging that the Borough of Lansford (Borough) violated Section 6(1)(a), (b), (c), and (e) of the Pennsylvania Labor Relations Act (PLRA), as read with Act 111. The Union specifically alleged the following: the Borough refused to implement necessary changes to its pension ordinance pursuant to the parties' collective bargaining agreement (CBA), effective January 1, 2023, through December 31, 2026; the Borough discriminated against and coerced FOP representative Sergeant Shawn Nunemacher when he presented a Step-2 grievance on November 12, 2024, regarding the Borough's alleged failure to amend the pension ordinance; and the Borough refused to provide requested information regarding a confrontation that occurred during the November 12, 2024 grievance filing.

On January 31, 2025, the Secretary of the Board issued a Complaint and Notice of Hearing designating a hearing date of Monday, April 7, 2025, in Harrisburg. After several continuances, at the request of the parties and the hearing examiner, the hearing was held in person on Thursday, September 25, 2025, in Harrisburg. During the hearing on that date, both parties were afforded a full and fair opportunity to present documents and testimony and to cross-examine witnesses. Before the introduction of evidence, the Union withdrew all claims and charges under Section 6(1)(b), (c), and (e). Thus, only the claims under Section 6(1)(a) for the confrontation on November 12, 2024 remain for consideration. (N.T. 9-14). Both parties simultaneously filed post-hearing briefs in support of their respective positions on December 1, 2025.

The examiner, based upon all matters of record, makes following:

FINDINGS OF FACT

1. The Borough is a public employer and political subdivision within the meaning of Act 111, as read with the PLRA. (N.T. 6-7; UX-1)

2. The Union is a labor organization within the meaning of Act 111, as read with the PLRA. (N.T. 6-7; UX-1)

3. The FOP is the exclusive collective bargaining representative for the police officers employed by the Borough. (UX-1)

4. Bruce Markovich has been the Borough Council President since 2020. (N.T. 109)

5. Shawn Nunemacher is a Sergeant in the Borough's Police Department. He is also the FOP representative. In his role as FOP representative, Sgt. Nunemacher files grievances and negotiates contracts on behalf of the Union and the police officers. He regularly interacts with Borough officials regarding labor-management issues. (N.T. 15-16)

6. Michelle Bartek is a Borough Council member, and she is the Chair of the Borough's Public Safety Committee, which oversees the Police Department. Hugh Vrablic is the Borough's Mayor. Ms. Bartek is the first step in the police grievance procedure. (N.T. 15-17)

7. In November 2024, Maria Ahner was the Borough's Secretary/Treasurer, and Ashley McLaughlin was the Assistant Secretary. Both work in the Borough office. In January 2025, the Borough split the Secretary/Treasurer position. Ms. Ahner became the Treasurer, and Ms. McLaughlin became the Borough Secretary. (N.T. 18-19, 81-83, 96-98)

8. On July 3, 2024, the parties entered into a CBA effective from January 1, 2023, through December 31, 2026. Article 9 of the CBA provides, in relevant part, that "[t]he pension ordinance shall be amended to include that each officer will receive fifty (50%) of the last 36 months average salary to include all overtime." (UX-1, Art. 9 § 2(a))

9. On September 4, 2024, the FOP's attorney sent a letter to the Borough's solicitor requesting that the Borough amend the pension ordinance "to confirm its obligation to include overtime in the Pension Monthly Average Salary Calculation." (N.T. 22-23; UX-2)

10. On October 28, 2024, Sgt. Nunemacher filed a Step-1 grievance on behalf of bargaining unit officers complaining that "[a]s of this date, the Borough has not responded to the FOP's request and has failed to implement the necessary changes to the Pension Ordinance to confirm its obligation to include overtime in the Pension Monthly Average Salary Calculation." This grievance was time-stamped as received by Ms. Ahner. Sgt. Nunemacher received no response from Ms. Bartek within the time required by the contractual grievance procedure, which is deemed a denial. She did not share the grievance with Mr. Markovich. ((N.T. 25-26, 44, 59, 86, 99-100, 131; UX-3)

11. Video of the Borough Office shows that Sgt. Nunemacher entered the Office at 11:59:33 on November 12, 2024. It shows that Mr. Markovich was seated at his desk in the Borough Office behind and left of the counter. Mr. Markovich stood up from his desk at 11:59:28 to talk to Ms. McLaughlin. Sgt. Nunemacher then approached the counter at 11:59:39. Mr. Markovich then approached Sgt. Nunemacher and began speaking to him. There is no audio component to the video footage. The exchange lasted until 12:03. (UX-5)

12. The witnesses were sequestered during the hearing, and the witnesses gave different accounts of what Mr. Markovich and Sgt. Nunemacher said to each other and how they said it. (N.T. 7-8, 27-57, 123-149)

13. The video shows that Mr. Markovich approached Sgt. Nunemacher and began speaking first while pointing his finger, but outwardly calm. Mr. Markovich pointed his finger while speaking for a while and changed to moving an open hand while speaking. Then Sgt. Nunemacher began speaking first with no hand gestures and then Sgt. Nunemacher began moving an open hand while speaking. (UX-5)

14. The video shows Sgt. Nunemacher becoming escalated first at which point Mr. Markovich attempted to walk away with his hand up in a gesture of resignation. At this point, Mr. Markovich is off camera and Sgt. Nunemacher continued to yell at Mr. Markovich. Mr. Markovich then comes back into view and walks to within a foot of Sgt. Nunemacher. Sgt. Nunemacher is leaning forward while visibly yelling and gesturing in an escalated manner. Mr. Markovich seems calmer. (UX-5)

15. Sgt. Nunemacher testified that, as Mr. Markovich approached Sgt. Nunemacher from the left, Mr. Markovich said: "We need to talk about this grievance, I am suggesting you take this back." When Sgt. Nunemacher asked why, Mr. Markovich responded: "Because you're going to owe us a lot of money . . . you're going to have to pay us back for that . . . because you didn't pay enough money in." Sgt. Nunemacher asked: "How is that our fault?" Mr. Markovich responded: "We're entitled to it, we're able to take that money back . . . I suggest you take this grievance back." (N.T. 27, 48-49, 53)

16. Sgt. Nunemacher testified that he said that he would not take the grievance back and turned toward the counter when Mr. Markovich said that "you're going to lose this like you're going to lose all the other stuff," to which Sgt. Nunemacher responded: "we didn't lose anything." Mr. Markovich then said for the 3rd or 4th time: "I'm going to take your money." Sgt. Nunemacher then asked: "Are you threatening us that you are going to take our money?" Mr. Markovich responded: "That's not a threat. I'm telling you what's going to happen." (N.T. 28-29)

17. After some other exchanges, according to Sgt. Nunemacher, Mr. Markovich said: "I'm telling you, you need to take that [grievance] back. You're going to pay that money." He then said: "I'm leaving." And Sgt. Nunemacher replied: "Okay then go." Mr. Markovich became red-faced, walked up close to Sgt. Nunemacher, and said: "You're not telling me to leave my building." The video shows that Mr. Markovich came within a foot of Sgt. Nunemacher. At this point, both men were yelling at each other, Mr. Markovich was between Sgt. Nunemacher and the exit, and Sgt. Nunemacher said: "Leave me alone," in a long and drawn-out manner. Sgt. Nunemacher testified that he felt like he could not disengage because Mr. Markovich was "in his face." (N.T. 29-30, 50, 54, 69-71, 89, 102-103; UX-5)

18. Detective Joshua Tom testified that, from the basement of the Borough Building, he heard an unidentified man yelling and then he heard Sgt. Nunemacher yelling. Detective Tom went upstairs and entered the Borough Office. Detective Tom testified that, upon entering the Borough Office, he saw Mr. Markovich to the right, and Sgt. Nunemacher "pinned" in the corner to the left. Mr. Markovich then backed up and said: "This isn't going to end here." "You're not going to win this." Mr. Markovich then left the Borough Building. (N.T. 30-31, 56, 69-71; UX-5)

19. To the extent that the unidentified man that Detective Tom heard from downstairs was Mr. Markovich, the video shows that Mr. Markovich did not appear to yell or become escalated until the end of the argument. The video shows that Mr. Markovich at one point raised his arm in resignation and attempted to walk away. (UX-5)

20. Ashley McLaughlin occupies the front desk and deals more with the public at the front counter in the Borough Office. Maria Ahner occupies the desk behind Ms. McLaughlin's desk. Ms. Ahner received and time-stamped the Step-1 grievance filed on October 28, 2024. The video shows that Ms.

McLaughlin and Ms. Ahner were approximately 8-15 feet from the counter on November 12, 2024, when Sgt. Nunemacher was filing the Step-2 grievance. Both of them acknowledged hearing raised voices. Ms. Ahner testified that she did not hear the substance of the argument between Sgt. Nunemacher and Mr. Markovich. Ms. McLaughlin testified that she did not remember a whole lot about the argument. During the argument, Ms. McLaughlin took the Step-2 grievance from the countertop where Sgt. Nunemacher placed it, copied it, time-stamped it received on November 12, 2024. The video shows that, in attempting to return the grievance to Sgt. Nunemacher, Ms. McLaughlin was standing at the counter about 5 feet from the argument waiting for a break in the argument to hand Sgt. Nunemacher his grievance back. Ms. McLaughlin was looking at the confrontation, and she was visibly uncomfortable. She did hand Sgt. Nunemacher the stamped copy of the grievance. (N.T. 25-27, 31, 35-36, 44, 47, 69-71, 87-89, 90-93, 100-103; UX-3, UX-5; BX-1)

21. No one told Ms. Ahner not to accept the Step-2 grievance. No one told Ms. McLaughlin not to accept the Step-2 grievance. (N.T. 94, 105)

22. Afterward, Sgt. Nunemacher typed an incident report (Report) detailing what transpired between him and Mr. Markovich. Sgt. Nunemacher completed and printed the Report at 12:58 p.m. on November 12, 2024, within an hour of the incident. (N.T. 32; UX-4)

23. Sgt. Nunemacher's Report provides, in relevant part, as follows:

Upon getting upstairs council president Bruce Markovich was standing by the counter. Markovich turned to me and in an aggressive manner stated we need to talk about this grievance. He then stated he is suggesting we take our grievance back. I asked why. He stated because the officers would have to pay money due to the borough not taking out enough. I asked why that would be our fault. Markovich stated because they can re coop [sic] their losses. I informed him that I did not think he was right. Markovich again stated they would take the money back and that they could. I told Markovich I did not believe him and that he lies. Markovich continued on stated [sic] I was wrong. I again turned back to Markovich and told him he doesn't do anything correct. Markovich again began stating about taking money. I informed him that I believed he was threatening me if I put the grievance in. He stated he was not and that he was telling me. Markovich then moved behind me towards the exit and continued talking. I told Markovich that he just does what he wants and not what the Town wants. I told him that stores are getting broken into because there's no cops. Markovich stated how[']s that his fault. I told him because he runs the town. He then stated that was on the mayor. After this back and forth for several minutes Markovich stated he was done. I said okay the[n] just leave. Markovich turned towards me very angry and stated your [sic] not going to tell me to leave. Markovich then walked up to me abruptly and got within inches of my face right up against me. At this point I believed Markovich was going to strike me and I had no way to leave the office as he was block [sic] my front. He again stated I wasn't going to tell him to leave. I told him I was trying to do what the contract told me to do. Markovich told me everything in the bor[ough] office was being video recorded. I told him good. I must have told Markovich 3-4 times to leave or leave me alone and he persisted.

During this both [S]ecretary Ashley McLaughlin and Maria Ahner were present. Detective Tom who was downstairs in the station heard the commotion and came upstairs.

During this Markovich make every attempt to get me to stop the grievance process and then boxed me in to which I believed he was going to strike me.

(UX-4)

24. After receiving the Union Attorney's September 4, 2024 letter, Mr. Markovich arranged for the pension ordinance amendment issue to be placed on the agenda for a Council meeting. At a subsequent Council meeting, Council authorized its solicitor to amend the ordinance. The proposed amended ordinance was sent for an actuarial study, and the amended ordinance was adopted on February 12, 2025. (N.T. 110-114)

25. Mr. Markovich testified that he was unaware of the Step-1 grievance filed on October 28, 2024, when Sgt. Nunemacher entered the Borough Offices on November 12, 2024, to file the Step-2 grievance. Prior to November 12, 2024, Mr. Markovich learned that the police pension was underfunded because the prior Borough Secretary/Treasurer had deducted 2.8% from the officers' pay instead of 3.5%. (N.T. 114-128, 131)

26. On November 8, 2024, the Office of the Auditor General emailed an audit report to the Borough. The report contains 2 distinct findings: 1) Noncompliance With Prior Recommendation-Inconsistent and Unauthorized Pension Benefits; and 2) Incorrect Data On Certification Form AG 385 Resulting In An Underpayment Of State Aid. (BX-2)

27. On November 10th or 11th, 2024, Council met and decided to arrange a meeting with the police Union to explain the pension shortfall.¹ (N.T. 121-122)

28. Mr. Markovich testified that he told Sgt. Nunemacher that "we have an issue with the pension, we need to meet and go over this." Mr. Markovich added: "there were mistakes made in the pension." Sgt. Nunemacher responded: "Who made the mistakes?" Mr. Markovich answered: "Evidently, we did." Sgt. Nunemacher said: "It sucks to be you." Mr. Markovich asserted that the pension is underfunded and "we have every right to recover that money, if we decide to do that." Sgt. Nunemacher said: "We'll take you to arbitration," to which Mr. Markovich said: "It hasn't done you any good in the past." (N.T. 123-124, 147-149)

29. Mr. Markovich testified that, at that point, Sgt. Nunemacher "just lost it," and began blaming Mr. Markovich for a list of things while yelling and using the "F-word." Mr. Markovich testified that he just stood there and listened to it. He then explained to Sgt. Nunemacher that he only has himself to blame for not becoming Chief. Mr. Markovich testified that Sgt. Nunemacher was "so enraged" that he was not listening to reason. The video does show that Sgt. Nunemacher became enraged. (N.T. 123-126)

¹ The record does not identify whether this meeting was an executive session or a public meeting.

30. Mr. Markovich testified that Sgt. Nunemacher then told Mr. Markovich to leave to which Mr. Markovich responded: "This is my office . . . you don't tell me to get out of my office." Then, according to Mr. Markovich, Sgt. Nunemacher again said: "Get out of this office." Mr. Markovich repeated: "This is my office; I'll leave when I want to leave." Sgt. Nunemacher then told Mr. Markovich to "get out of this office before you get hurt." (N.T. 125-126, 141)

31. Mr. Markovich testified that, at this point, he got up in front of Sgt. Nunemacher and said: "You do not come into my office, you do not threaten me. You don't threaten to hurt me in my office." Mr. Markovich testified that Detective Tom walked in, and that Mr. Markovich began to leave the office. Mr. Markovich testified that he left the Borough Office and while walking down the street, he heard Sgt. Nunemacher yelling something else at him. The video shows Sgt. Nunemacher yell something as he walked outside. (N.T. 126; UX-5)

32. Mr. Markovich testified that he did not know that Sgt. Nunemacher was filing a grievance on November 12, 2024, that he did not tell Sgt. Nunemacher that he could not file a grievance, or that Sgt. Nunemacher should take the grievance back. Mr. Markovich testified that he saw that Sgt. Nunemacher had papers in his hand but he did not know what those papers were. The video shows that Sgt. Nunemacher did not give the grievance to Ms. McLaughlin until the middle of the argument. Mr. Markovich testified that he only intended to address the pension shortfall with Sgt. Nunemacher as the FOP representative. He testified that he did not intend to address any grievance and that he did not yell at Sgt. Nunemacher until Sgt. Nunemacher threatened to hurt him. (N.T. 127-128, 131, 136-137; UX-5)

33. Mr. Markovich testified that he learned of the grievance a few days later when the Borough Solicitor emailed him. The Borough did not discipline Sgt. Nunemacher for the November 12, 2024 incident. (N.T. 129-130, 139-140)

DISCUSSION

The Union argues that the Borough Council President knew that Sgt. Nunemacher was engaging in protected activity when filing the Step-2 grievance pursuant to the pension provisions of the CBA on November 12, 2024, and that Mr. Markovich's behavior and statements towards Sgt. Nunemacher, under the totality of the circumstances in which they occurred on that date, interfered with, restrained, and coerced Sgt. Nunemacher and the FOP members in the exercise of their protected rights. (Union Brief at 4, 9). The Union further contends that Sgt. Nunemacher's Report, which he wrote the same day at the direction of the Chief, confirms his testimony about the events of November 12, 2024. (Union Brief at 7). The Union asserts that Detective Tom, who was downstairs, heard a man yelling and then heard Sgt. Nunemacher yelling for a man to get away from him and leave. This caused Detective Tom to go upstairs into the Borough Office and saw Mr. Markovich and Sgt. Nunemacher. (Union Brief at 8-9). The Union also argues that the testimony of Mr. Markovich that he was not aware of the Step-1 grievance and the reasons he approached Sgt. Nunemacher on November 12, 2024, should not be credited because he gave contrary and inconsistent testimony and denied raising his voice. (Union Brief at 9-11).

The Borough essentially argues that the Union failed to establish that Mr. Markovich acted with the intent to interfere with the filing of the grievance on November 12, 2024 because the testimony of Mr. Markovich establishes that he did not know about the Step-1 grievance or that Sgt. Nunemacher had the Step-2 grievance in his hand for filing. The Borough maintains that Mr. Markovich only intended to have a labor-management meeting with the FOP representative about the pension shortfall which resulted in a confrontation but not interference with or coercion regarding the filing of a grievance seeking the inclusion of overtime in pension calculations. (Borough Brief at 3-7).

The Board will find an independent violation of Section 6(1)(a) has occurred where, in light of the totality of the circumstances, "the employer's action has a tendency to coerce a reasonable employee in the exercise of protected rights." Pennsylvania State Troopers Association v. Commonwealth of Pennsylvania, Pennsylvania State Police, 42 PPER 46 at 156 (Final Order, 2011). Actual coercion of the employees and improper motive on the part of the public employer need not be shown in order to find a violation of Section 6(1)(a). Teamsters Local No. 249 v. Millvale Borough, 36 PPER 147 (Final Order, 2005).

The resolution of this case turns on whether Mr. Markovich intimidated or coerced Sgt. Nunemacher for filing a grievance and telling him to take it back. Mr. Markovich and Sgt. Nunemacher have polar opposite recollections of what transpired on November 12, 2024, and the video evidence does not indicate whether Mr. Markovich mentioned the grievance or attempted to stop Sgt. Nunemacher from filing it. Also, Ms. McLaughlin and Ms. Ahner, who were in the same area just a few feet away, inexplicably testified that they did not hear or recall the substance of the argument, even though Ms. McLaughlin was visibly uncomfortable while looking at the Sergeant and the Borough Council President arguing from just a few feet away.

The Union presented the Report written by Sgt. Nunemacher, which he printed within an hour of the argument, as corroboration of Sgt. Nunemacher's version of events. However, the Report and Sgt. Nunemacher's testimony are insufficient to discredit the testimony of Mr. Markovich. Also, the video shows that Sgt. Nunemacher became escalated first not Mr. Markovich, which undercuts Det. Tom's testimony that he heard from the basement another man yelling and then he heard Sgt. Nunemacher yelling. There is no basis for crediting one version of events over the other on this record after evaluating the demeanor, credibility, and command of the historical facts of both Sgt. Nunemacher and Mr. Markovich.

Mr. Markovich credibly testified that he was unaware of the Step-1 grievance, and that he was unaware that Sgt. Nunemacher was in the Borough Office to file the Step-2 grievance on November 12, 2024. Certainly, had Mr. Markovich attempted to block Sgt. Nunemacher's efforts to file the Step-2 grievance on November 12, 2024, a reasonable person would have been coerced in the exercise of rights protected under the PLRA. However, the testimonies of both Sgt. Nunemacher and Mr. Markovich are consistent in that the argument pertained to taking money back from officers because of the pension shortfall and not to amending the pension ordinance to include overtime. Mr. Markovich and Sgt. Nunemacher were not arguing over anything that pertained to the grievance. Significantly, the Borough had already begun the process of amending the pension ordinance, and Mr. Markovich had no reason to argue about changing the pension ordinance or any grievances pertaining thereto.

Thus, the unresolved conflicts in the record and the fact that both sides agree that the argument did not pertain to the subject of the grievance necessitates the conclusion that the Union did not meet its burden of proving by a preponderance of the evidence that, under the totality of the circumstances, Mr. Markovich interfered with Sgt. Nunemacher's protected right to file the Step-2 grievance on November 12, 2024. The heated argument on November 12, 2024, between a Management representative and a Union representative over the pension shortfall, and the list of other matters allegedly plaguing the Borough, did not in itself violate Section 6(1)(a) of the PLRA, as read with Act 111.

CONCLUSIONS

The hearing examiner, therefore, after due consideration of the foregoing and the record as a whole, concludes and finds as follows:

1. The Borough is a public employer and a political subdivision within the meaning of the PLRA, as read with Act 111.
2. The Union is a labor organization within the meaning of the PLRA, as read with Act 111.
3. The Board has jurisdiction over the parties hereto.
4. The Borough has not committed unfair labor practices within the meaning of Section 6(1)(a) of the PLRA, as read with Act 111.

ORDER

In view of the foregoing and in order to effectuate the policies of the PLRA and Act 111, the hearing examiner

HEREBY ORDERS AND DIRECTS

that the charge is dismissed, the complaint is rescinded and that in the absence of any exceptions filed with the Board pursuant to 34 Pa. Code § 95.98(a) within twenty (20) days of the date hereof, this order shall be and become final.

SIGNED, DATED AND MAILED at Harrisburg, Pennsylvania, this eighteenth day of December, 2025.

PENNSYLVANIA LABOR RELATIONS BOARD

/S/ JACK E. MARINO

JACK E. MARINO, Hearing Examiner