

Construction Laborers Got \$416G

DEP Pays Final Piece Of Retaliation Penalty

Posted: Monday, May 19, 2014 5:45 pm

By DAN ROSENBLUM | [0 comments](#)

The de Blasio administration has paid out the remaining \$100,000 owed to eight Department of Environmental Protection workers who the Board of Collective Bargaining ruled were retaliated against, said Thomas Kattou, treasurer of Laborers Local 376 of District Council 37.

Last December, the BCB ruled that two supervisors retaliated against nine Apprentice Construction Laborers and improperly fired them or extended their probationary periods.

Cost City Big

The May 8 installment compensated three employees who did not receive promotions to Construction Laborer while earlier payments went to five employees who were fired. To date, the city has paid those laborers about \$416,000, according to Mr. Kattou.

He said the "mass firing" affected the workers' families and the situation was "unnecessary."



THOMAS KATTOU: Anti-union animus costly to DEP.



EMILY LLOYD: A new era in labor relations?

"To the city it may not be much, I don't know, but almost a half-million dollars in back pay? I mean, they could have used it for something else, I'm sure," he said. "They had these guys sitting at home, not by choice. Now they've got to pay them."

The case took root in July 2012, when DEP officials looking to begin a hydraulic mini-excavator pilot program met with Local 376 President Gene DeMartino, who opposed it as outside of his workers' job titles, according to the BCB decision. The department and the local debated beginning the pilot program over the next few months. In January 2013, Deputy Commissioner James Roberts met with International Union of Operating Engineers Local 15, which urged its members to work the mini-excavators, but the DEP preferred having Local 376 members handle them, saying that would allow them to work more interchangeably and efficiently.

Grievance Retaliation?

In March 2013, the DEP began the pilot program and the local filed a grievance. Around the same time, Mr. Roberts and Director of Field Operations Anastasios Georgelis signed off on almost all of the personnel decisions to fire Richard Goslin, Rainier Lapompe, Eulalio Neredia, Shamel Tatum and Anthony Wagner. The managers also extended probationary periods for Philip Bristol, Daniel Coffey, Nicholas DelPonte and Anthony Shiulaz.

Apprenticeships generally last for two years but can be extended for up to one year, according to the BCB.

The local argued that the moves were retaliation for the grievance, while the city said the DEP terminated the ACLs because of their performance evaluations and attendance records and that supervisors made their decisions before they knew about the grievance. Ultimately, the Board decided the local made its case that the supervisors knew about the union activity well before the grievance and began making employment decisions two days after Mr. Roberts and Mr. DeMartino had a heated confrontation.

'Unprecedented Action'

"This suspicious timing does not stand alone," the Board wrote. "It is apparent from the record that failing to mature an entire class of ACLs at the end of the two-year probationary period is an unprecedented action."

In the interim, some of the employees had difficulty finding jobs and ran into debt, according to Mr. Kattou.

Stuart Lichten, an attorney who represented the local, said the fired workers were reinstated in February and each received about \$55,000 between ACL and CL pay. The four probationary workers have since been promoted and three were paid the differential between the two CL classes.

Mr. Shiulaz, whose probation extension the BCB found valid because he let his Commercial Driver's License lapse, should be paid soon, according to Mr. Lichten. The local is seeking money because, while it conceded the reason was valid, the extension was too long, Mr. Kattou said.

'Was Almost Legit'

"That was the only one that was almost legit—almost," Mr. Kattou said.

Mr. Kattou said he hoped DEP Commissioner Emily Lloyd would take a more active look at internal friction, that was a constant during both the Giuliani and Bloomberg administrations.

It isn't clear whether the two supervisors cited in the decision were disciplined. The DEP did not respond to an e-mail inquiring whether they were still employed within the department.

Still, Mr. Lichten said the agency's attorneys told him it wanted to have positive relations with the chapter, which he indicated could be a sea change with the new mayoral administration.

"That's the first time I've ever heard they want to maintain good labor relations with Local 376," he said.