

SCANNED

11/10/15

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Mary Trometter, :
 :
 Petitioner :
 :
 v. : No. 1484 C.D. 2015
 :
 Pennsylvania Labor Relations Board, :
 Respondent :

MEMORANDUM AND ORDER

NOW, this 19th day of October, 2015, following argument on respondent Pennsylvania Labor Relation Board's (PLRB) Application to Quash Petition for Review Pursuant to Pa. R.A.P. 123 or for Summary Relief Pursuant to Pa. R.A.P. 1532(b) and petitioner Mary Trometter's (Petitioner) answer in opposition thereto, it is hereby ORDERED that the application is DENIED for the following reasons:

1. The PLRB's reliance on *Matesic v. Maleski*, 624 A.2d 776 (Pa. Cmwlth. 1993), in support of its application to quash the petition for review for failure to exhaust administrative remedies is misplaced. In *Matestic*, this Court applied the doctrine of failure to exhaust administrative remedies to dismiss a mandamus action brought in this Court's original jurisdiction. In the case now before the Court, Petitioner did not file an action in mandamus; rather, Petitioner filed a petition for review of an order of the PLRB filed in this Court's appellate jurisdiction pursuant to 42 Pa.

C.S. § 763(a). (*See* Petition for Review ¶ 2.) Thus, *Matesic* is inapplicable to this matter.

2. The PLRB's contention that the petition for review should be quashed for failure to include an indispensable party (*i.e.*, the PLRB) in the caption is moot. The PLRB appears to set forth alternative arguments—one based on Pa. R.A.P. 1513(a) relating to appellate jurisdiction actions and the other based on Pa. R.A.P. 1513(b) relating to original jurisdiction actions. As noted above, Petitioner specifically invoked this Court's appellate jurisdiction and disputes that she has filed an action in this Court's original jurisdiction seeking mandamus. (*See* Petitioner's Answer to Application to Quash ¶¶ 20-22). Thus, only Pa. R.A.P. 1513(a) is relevant to our analysis. Pa. R.A.P. 1513(a) provides, in part, that in an appeal of an agency decision, "unless the government unit is disinterested, the government unit and no one else shall be named as the respondent." The PLRB correctly points out that the caption Petitioner included in her appeal of the agency's action failed to identify the PLRB as a respondent. Instead, the petition for review identified the National Education Association (NEA) and the Pennsylvania State Education Association (PSEA) as respondents. This Court, however, routinely conforms the captions of agency action appeals to comply with Pa. R.A.P. 1513(a), as the Court did in this instance by identifying the PLRB as the only respondent in the caption of this matter. (*See* caption of above.) Furthermore, the Court notes that the NEA and PSEA together filed a notice of

intervention with this Court on September 18, 2015, and they are now intervenors in this matter.

3. With regard to the PLRB's application for summary relief pursuant to Pa. R.A.P. 1532(b), the PLRB incorrectly presumes that Petitioner filed an original jurisdiction action seeking mandamus. As a result, no relief will be afforded to the PLRB under Pa. R.A.P. 1532(b).



P. KEVIN BROBSON, Judge

Certified from the Record

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and Order Exit