

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UP-39-03

ASSOCIATION OF OREGON)
CORRECTIONS EMPLOYEES,)
)
Complainant,)
)
v.)
)
STATE OF OREGON,)
DEPARTMENT OF CORRECTIONS,)
)
Respondent.)
_____)

FINDINGS AND ORDER
ON COMPLAINANT'S PETITION
FOR REPRESENTATION COSTS

This Board issued an order on June 16, 2004, holding that Respondent violated ORS 243.672(1)(e). Complainant filed a petition for representation costs on June 23, 2004. Respondent filed objections to the petition on July 12, 2004. Pursuant to OAR 115-35-055, we make the following findings:

- 1 Complainant is the prevailing party.
- 2 Complainant filed a timely petition for representation costs. Respondent filed timely objections
- 3 Complainant requests an award of \$3,500, the maximum allowed under Board rules. According to the affidavit of counsel, the request is based on 37.4 hours of legal services valued at \$175.00 an hour (\$6,545).
- 4 This case required a little less than a one-day hearing before an administrative law judge. Respondent did not file objections to the recommended order. There was no oral argument before this Board. Both the hourly rate and the number of hours claimed exceed the average in similar cases.

5. Complainant argues that this Board found Respondent guilty of an ORS 243.672(1)(e) failure to provide information in a previous case, *see Association of Oregon Corrections Employees v. State of Oregon, Department of Corrections*, Case No UP-7-98, 18 PECBR 64 (1999), and therefore this Board should order a higher than average award. That case involved criminal investigation records that Respondent believed it did not have to provide. Here there was inadequate and untimely communication on the part of the Respondent which involved a failure to timely provide information to the Complainant. The cases are not similar.

6. Having considered the policies and the purposes of the Public Employee Collective Bargaining Act, the appropriate charges for services rendered, and our awards in similar cases, this Board awards Complainant representation costs of \$1,000

ORDER

Respondent shall remit to the Complainant \$1,000 within 30 days of the date of this Order.

DATED this 28th day of January 2005.



Paul B. Gamson, Chair



James W. Kasameyer, Board Member



Rita E. Thomas, Board Member

This Order may be appealed pursuant to ORS 183.482.