2016 IL App (5th) 150163-U

NO. 5-15-0163

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

FREDERICKA T. WALKER,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	St. Clair County.
	)	
v.	)	No. 14-MR-177
	)	
BOARD OF EDUCATION OF EAST ST. LOUIS SCHOOL DISTRICT NO. 189,	)	Honorable
	)	Richard A. Aguirre,
Defendant-Appellee.	)	Judge, presiding.

JUSTICE WELCH delivered the judgment of the court.
Presiding Justice Schwarm and Justice Moore concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court's dismissal of the plaintiff's claim is affirmed where the circuit court lacked subject matter jurisdiction to vacate, enforce, or modify an arbitration award.

¶ 2 The plaintiff, Fredericka T. Walker (Walker), was employed as a tenured teacher by the defendant, the Board of Education of East St. Louis School District No. 189 (School District), until her dismissal in June 2013. In May 2014, following the denial of her grievance by the arbitrator, Walker filed a complaint in the circuit court of St. Clair County to vacate the arbitration award. The circuit court granted the School District's

motion to dismiss with prejudice, finding that the court lacked subject matter jurisdiction over the claim. Walker appeals the ruling. For the following reasons, we affirm.

¶ 3 On April 4, 2013, the School District dismissed Walker at the end of the 2012-13 school year, upon economic necessity as part of a reduction in force, pursuant to section 24-12(b) of the Illinois School Code (105 ILCS 5/24-12(b) (West 2014)).

¶ 4 On March 1, 2012, as part of an annual performance evaluation procedure, Walker received a performance review by an assistant principal employed by the School District. At that time, Walker alleged she received a "satisfactory" rating for her performance pertaining to the 2011-12 school year.

¶ 5 In the spring of 2012, however, Walker alleged that she was fraudulently instructed to sign and backdate a new evaluation that changed her 2011-12 performance rating from "satisfactory" to "needs improvement." To conceal these actions, Walker alleged that the assistant principal confiscated all original, unaltered copies of the March 1, 2012, purported evaluation. Walker alleged that because teacher performance evaluations were not used to determine layoff order for reduction-in-force purposes in 2012, she did not grieve the above allegations.

¶ 6 On February 28, 2013, Walker underwent an annual performance evaluation for the 2012-13 school year, and received a "proficient" rating for her performance.

¶ 7 On April 4, 2013, Walker received a notice of statement of honorable dismissal from the School District, effective on June 5, 2013, at the completion of the 2012-13 school year. For purposes of determining layoff order in an economic necessity-based

reduction in force,[1] Walker was placed in grouping two, based on her two most recent performance evaluations, which included the altered March 1, 2012, "needs improvement" and the February 28, 2013, "proficient" reviews.

¶ 8 On April 16, 2013, Walker, with the assistance of the East St. Louis Federation of Teachers, Local 1220 IFT/AFT, AFL/CIO (Union), filed a grievance against the School District challenging her dismissal based on her inclusion in grouping two. Walker claimed but for her wrongful inclusion in grouping two, based on the altered March 1, 2012, review, she would not have been subject to the reduction in force, as she would have been placed in grouping three.

¶ 9 In June 2013, the School District denied Walker's grievance.

¶ 10 On February 3, 2014, and February 4, 2014, a public educational labor arbitration was held in East St. Louis, Illinois, before arbitrator Brian Clauss, between the School District and the Union, on behalf of Walker. On March 25, 2014, the arbitrator denied Walker's grievance "based upon a less than proficient performance evaluation rating for the 2011-12 school year which was not grieved." The arbitrator concluded that Walker

[1]Per the appellant's brief, if an educational employee receives either "satisfactory" or "proficient" ratings, the employee is placed in grouping three. If an educational employee receives "needs improvement" or "unsatisfactory" on one of the last two performance evaluations, the employee is placed in grouping two. Educational employees in grouping two are honorably dismissed before those employees placed in grouping three.

had failed to grieve her 2011-12 rating, following the alleged altered evaluation in the spring of 2012, within 45 days of the occurrence giving rise to the complaint or grievance, as required by Article XVIII.b.1 of the collective bargaining agreement.[2]

¶ 11 On May 16, 2014, following the denial of the grievance by the arbitrator, Walker filed a complaint in the circuit court of St. Clair County to vacate the arbitration award, specifically seeking judicial review of the grievance award entered pursuant to the Illinois Educational Labor Relations Act (IELRA) (115 ILCS 5/1 *et seq.* (West 2014)).

¶ 12 On June 23, 2014, the School District filed a motion to dismiss pursuant to section 2-619(a)(1) of the Illinois Code of Civil Procedure (735 ILCS 5/2-619(a)(1) (West 2014)), asserting that the circuit court lacked subject matter jurisdiction.

¶ 13 On November 25, 2014, the circuit court granted the School District's motion. The sole issue before the circuit court was whether the IELRA divests circuit courts of jurisdiction to vacate or enforce arbitration awards in public education. The court ruled in the affirmative, citing two Illinois Supreme Court cases on this question. See *Board of Education of Community School District No. 1, Coles County v. Compton*, 123 Ill. 2d 216 (1988); see also *Board of Education of Warren Township High School District 121 v. Warren Township High School Federation of Teachers, Local 504*,128 Ill. 2d 155 (1989) (holding that the IELRA divests the circuit courts of jurisdiction to vacate or enforce arbitration awards in the context of public education labor disputes). In support, the

[2]Neither the contents of the collective bargaining agreement nor the proceedings before the arbitrator are contained within the record on appeal.

circuit court noted that the supreme court's holdings applied to both educational employers and employees, as it was the legislature's intent to eliminate forum shopping, as "neither the IELRA nor the Illinois Supreme Court's holding in *Compton* and *Warren* so qualify a circuit court's lack of jurisdiction to vacate or enforce arbitration awards in public education."

¶ 14 On December 23, 2014, Walker filed a motion to vacate the circuit court's judgment. The court denied Walker's motion on March 24, 2015. Walker filed a timely notice of appeal on April 13, 2015.

¶ 15 The IELRA provides a framework for resolving labor disputes involving public schools and colleges and the unions representing their employees. Much of its focus is on providing a dispute-resolution procedure that will resolve disputes between employers and unions so as to minimize the likelihood of a strike. See *Compton*, 123 Ill. 2d at 219-20 (quoting Ill. Rev. Stat. 1985, ch. 48, ¶ 1701 (now at 115 ILCS 5/1 (West 2014))); see also *Mt. Vernon Education Ass'n, IEA-NEA v. Illinois Educational Labor Relations Board*, 278 Ill. App. 3d 814, 819 (1996) (noting that the purpose of the IELRA "is to promote the negotiation process between an educational employer and the employees' exclusive bargaining representative").

¶ 16 The IELRA provides that any collective bargaining agreement between a school district or public university and a union representing public educational employees must contain a grievance arbitration procedure applicable "to all employees in the unit." 115 ILCS 5/10(c) (West 2014). The Illinois Educational Labor Relations Board (IELRB) has

exclusive jurisdiction to review arbitration awards made pursuant to the grievance arbitration procedures. *Compton,* 123 Ill. 2d at 221.

¶ 17 On appeal, Walker asserts that the circuit court retains subject matter jurisdiction to vacate an arbitration award issued against an educational employee. Walker argues that because the School District's compliance with the arbitration award does not constitute an unfair labor practice, Walker is unable to bring this matter within the jurisdiction of the IELRB. See 80 Ill. Adm. Code 1120.20(a) (2012) ("[a]n unfair labor practice charge may be filed with the *** Board *** by *** an employee"). Walker contends that had the arbitrator's decision reinstated Walker, the School District could have obtained review by the IELRB by committing an unfair labor practice for failure to reinstate Walker.

¶ 18 The School District, on appeal, argues that no provision within the IELRA grants the circuit court jurisdiction to vacate, enforce, or modify arbitration awards, as this precise issue was already litigated and determined before our supreme court.

¶ 19 This court does find that the legislative intent of the IELRA, which was discussed in detail by the circuit court, clearly divests circuit courts of jurisdiction to judicially review arbitration awards in public education. Section 10(c) of the IELRA supports this contention, and provides in pertinent part:

> "The collective bargaining agreement negotiated between representatives of the educational employees and the educational employer shall contain a grievance resolution procedure which shall apply to all employees in the unit and shall provide for *binding* arbitration of disputes concerning the administration or

interpretation of the agreement." (Emphasis added.) 115 ILCS 5/10(c) (West 2014).

Ultimately, most arbitration is considered binding, thus, parties who agree to arbitration are bound to that agreement and bound to satisfy any award determined by the arbitrator. Moreover, arbitrated decisions allow little to no option for appeal, leaving parties who arbitrate to assume the risks of the process.

¶ 20 In addition, the United States Supreme Court determined that committing a technical breach of the law, in the form of an unfair labor practice, flowed from the structure of the IELRA, and thus, was not uncommon in labor law. *Compton*, 123 Ill. 2d at 225-26 (citing *Boire v. Greyhound Corp.*, 376 U.S. 473, 477 (1964)). Although circuit courts have no power to vacate, modify, or enjoin arbitration awards, we do sympathize with Walker, noting that sections 14 and 16 of the IELRA do not take into account the reality that educational employees cannot refuse to comply with an arbitrator's award, seeing that "refusal to abide by such an award is the accepted and only method of attacking the validity of the award." *Board of Education of Danville Community Consolidated School District No. 118 v. Illinois Educational Labor Relations Board*, 175 Ill. App. 3d 347, 349-50 (1988). However, the proper procedure for determining whether a party has violated sections 14(a)(8) and 14(b)(6) of the IELRA by refusing to comply with a binding arbitration award requires three considerations, including: (1) whether the arbitration award was binding; (2) the award's content; and (3) whether there has been compliance with the award. *Danville Community Consolidated School District No. 118*, 175 Ill. App. 3d at 350. Thus, the review by the IELRB is limited to the above

considerations, without redetermination of the merits of the issues presented before the arbitrator. *Central Community Unit School District No. 4 v. Illinois Educational Labor Relations Board*, 388 Ill. App. 3d 1060, 1067 (2009).

¶ 21 Based on the foregoing reasons, neither educational employers nor employees are entitled to judicial review of a binding arbitration award by the circuit court.

¶ 22 For the foregoing reasons, we affirm the order of the circuit court of St. Clair County dismissing Walker's claim for a lack of subject matter jurisdiction.

¶ 23 Affirmed.