

STATE OF MICHIGAN
COURT OF APPEALS

AMY MOORE,

Petitioner-Appellant,

v

DETROIT PUBLIC SCHOOLS and DETROIT
FEDERATION OF TEACHERS,

Respondents-Appellees.

UNPUBLISHED
December 29, 2005

No. 256220
MERC
LC No. 01-000213

Before: Owens, P.J., and Saad and Fort Hood, JJ.

PER CURIAM.

Petitioner appeals as of right from a decision of the Michigan Employment Relations Commission (MERC) upholding decisions by an administrative law judge to dismiss the charges and deny leave to amend. We affirm.

First, petitioner contends that the MERC erred in dismissing the charges on statute of limitations grounds. This presents an issue of law that we review de novo. *St Clair Co Ed Ass'n v St Clair Co Intermediate Sch Dist*, 245 Mich App 498, 512-513; 630 NW2d 909 (2001).

The Public Employees Relations Act, MCL 423.201 *et seq.*, governs public sector labor law. *Kent Co Deputy Sheriffs' Ass'n v Kent Co Sheriff*, 238 Mich App 310, 313; 605 NW2d 363 (1999). Violations of § 10, MCL 423.210, are deemed unfair labor practices remediable by the MERC. MCL 423.216. The procedure for handling unfair labor practices is set forth in § 16, which provides in part that “No complaint shall issue based upon any unfair labor practice occurring more than 6 months prior to the filing of the charge with the commission . . . unless the person aggrieved thereby was prevented from filing the charge by reason of service in the armed forces” MCL 423.216(a). The limitations period begins to run “when the person knows of the act which caused his injury and has good reason to believe that the act was improper, or done in an improper manner.” *Huntington Woods v Wines*, 122 Mich App 650, 652; 332 NW2d 557 (1983).

Petitioner claimed that respondents conspired to terminate her employment. Because that termination took effect on January 30, 2001, any conspiracy to bring about that result necessarily occurred before that time. Therefore, the limitations period began to run when petitioner’s employment was terminated, and ended six months later, on July 30, 2001. *Id.* at 652-653.

Because petitioner did not file her charges until October 29, 2001, the MERC properly dismissed them as untimely.

To the extent petitioner claims that her charge against the union for breach of its duty of fair representation was timely, we agree. A wrongful failure to pursue a grievance constitutes an unfair labor practice by the union. *Leider v Fitzgerald Ed Ass'n*, 167 Mich App 210, 215; 421 NW2d 635 (1988). The union refused to seek arbitration of petitioner's grievance in May 2001, within the six-month period. However, the MERC dismissed this aspect of petitioner's claim for want of proof, not because it was untimely, and petitioner has not appealed that decision.

Next, petitioner contends that the administrative law judge improperly excluded certain evidence at the hearing. Because petitioner has not cited any applicable case law or other authority to show that the evidence in question was admissible, the issue is deemed abandoned and we decline to consider it. *Prince v MacDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999).

Finally, petitioner contends that the MERC erred in denying her motion for leave to amend. We disagree. First, petitioner's claim that she should have been allowed to amend to allege a violation of MCL 423.24 was not raised below, and thus has not been preserved for appeal. *Alford v Pollution Control Industries of America*, 222 Mich App 693, 698-699; 565 NW2d 9 (1997). Second, only violations of §§ 16, 17a, and 22(a) of the labor mediation act, MCL 423.1 *et seq.*, are deemed "unfair labor practices remediable by the" MERC. MCL 423.23(2). Petitioner has not briefed the merits of her claim that violation of § 24 constitutes an unfair labor practice that is privately actionable, and thus the issue is deemed abandoned. *Prince, supra*.

Affirmed.

/s/ Donald S. Owens
/s/ Henry William Saad
/s/ Karen M. Fort Hood