

BEFORE THE PUBLIC EMPLOYEES RELATIONS BOARD

STATE OF OKLAHOMA

FRATERNAL ORDER OF POLICE, )  
LODGE NO. 93, )  
 )  
Complainant, )  
 )  
vs. ) Case No. 00358  
 )  
CITY OF TULSA, )  
 )  
Respondent. )

FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND ORDER

NOW ON this 19<sup>th</sup> day of June, 1998, there comes on for hearing the above-styled and – numbered administrative action. Complainant appears by and through its attorney of record, Loren Gibson. Respondent appears by and through its attorney of record, Ellen Hinchee. Parties waived the presentation of testimony, there being no significant dispute as to the facts of this matter. As such, the matter was submitted to the Board upon the Motion of each party for Summary Judgment. The Board received documentary evidence and exhibits and heard argument of counsel.

The Board is required by its rules to rule individually on Findings of Fact submitted by the parties. However, none were submitted and so no rulings are made. The parties submitted stipulations of facts and these are adopted by the Board based upon relevancy.

FINDINGS OF FACT

1. On January 6, 1997, Anthony Ingram (“Ingram”) began employment with the City of Tulsa in its police department.

2. On June 17, 1997, Ingram graduated from the Tulsa Police Academy (the "Academy"). While at the Academy, Ingram successfully completed examination by the Council on Law Enforcement Education and Training ("CLEET") for police officer certification.
3. Upon graduation from the Academy, Ingram was sworn as a peace officer, whose duties were to preserve the public peace, protect life and property, prevent crime, serve warrants, enforce the laws of Oklahoma and ordinances of the City of Tulsa. He was authorized to bear arms in the execution of such duties.
4. Thereupon, Ingram was placed in the Field Training Program.
5. On July 22, 1997, the City of Tulsa terminated Ingram's employment.
6. At the time of his termination, Ingram was a probationary employee of the City of Tulsa.
7. On July 28, 1997, Complainant filed a grievance regarding Ingram's termination and selected the Civil Service Commission to resolve the matter. The City has not acted upon the grievance because the City took the position that as a probationary officer Ingram was not a covered member for such appeal.
8. The collective bargaining agreement, Sec. 1.1 and Sec. 1.2, in effect between the parties at all pertinent times herein specifically excludes probationary officers from its scope.

#### **CONCLUSIONS OF LAW**

1. This matter is governed by the provisions of the Fire and Police Arbitration Act (the "FPAA"), 11 O.S.1991 and Supp.1997, Sec. 51-101, et seq., and the Board has jurisdiction herein.
2. The burden of proof in an unfair labor practice action is upon the charging party. 11 O.S.1991, Sec. 51-104b.

3. The hearing and procedures herein are governed by Article II of the Administrative Procedures Act, 75 O.S. 1991 and Supp.1997, Sec. 308a, et seq.

### OPINION

The Board has reviewed all of the briefs and arguments herein made and, there being no material facts in dispute, finds the argument of the Union to be unpersuasive. The Board is bound to decide this matter based upon existing case law. To rule in favor of the Union herein would effectively eliminate probationary status. The Board is unwilling to do that. There is a strong public policy in favor for the allowance of probationary status of police officers as exercised by the City of Tulsa. The Board notes it is not persuaded by the argument of the City of Tulsa as to its status as a home rule charter city.

### ORDER

It is, therefore, the **ORDER** of the Public Employees Relations Board that the Motion for Summary Judgment of the City of Tulsa is **GRANTED**. It is the further **ORDER** of the Board that the Motion for Summary Judgment of the Complainant Fraternal Order of Police, Lodge 93, is **DENIED**.

  
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Chairman  
Public Employees Relations Board