

PERB Reversed on Probationary Employees Right to Arbitration

On September 2, 2009, Tulsa County District Judge Rebecca Nightingale reversed PERB's July 23, 2007 opinion regarding probationary employees. The order states that PERB misinterpreted both the FPAA and the Oklahoma Supreme Court's ruling in *FOP v. City of Ardmore*, 44 P.3d 569 (Okl. 2002).

The IAFF has indicated they intend to appeal. The OML Board of Directors approved OML's entry into the case in support of the City of Tulsa.

Judge Nightingale held:

- The Ardmore case applies to both police officers and firefighters.
- "Probationary employees are not treated as permanent employees, that probationary periods are training periods, and during that time management retains great flexibility."
- Probationary employees are "not considered permanent for the purposes of grievance arbitration under the FPAA."
- There is no conflict between the FPAA and the City of Tulsa's Charter.
- It is appropriate to apply the Charter's twelve-month probationary period.
- Therefore, since the firefighter was terminated while he was still within the Charter's probationary period he is not a "permanent" member of the fire department and therefore has "no right to grievance arbitration under the FPAA."

[Back To Story Page](#)