

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE ADMINISTRATOR OF UNFAIR PRACTICE PROCEEDINGS

In the Matter of

PORT AUTHORITY TRANSIT CORP.,

Respondent,

-and-

DOCKET NO. CI-85-33 .

ARTHUR CLARK,

Charging Party.

TEAMSTERS UNION LOCAL NO. 676,

Respondent,

-and-

DOCKET NO. CI-85-36

ARTHUR CLARK,

Charging Party.

SYNOPSIS

The Administrator of Unfair Practice Proceedings declines to issue complaints with respect to charges filed by an individual against both his employer and his majority representative. The Administrator, relying on New Jersey Supreme Court precedent, finds that the Commission does not have jurisdiction over the Port Authority Transit Corporation because it is a bistate agency and not considered to be a public employer within the definition of the Act. Similarly, the Administrator finds that the Commission is without authority to issue a complaint against Teamsters Union Local No. 676, in its representational status for PATCO employees.

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REFUSAL TO ISSUE COMPLAINT

On August 21, 1984, two related Unfair Practice Charges were filed with the Public Employment Relations Commission ("Commission") by Arthur Clark ("Charging Party"). The first charge alleged that the Port Authority Transit Corporation ("PATCO") was engaging in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act"), when he was harassed by a foreman and given a written reprimand on June 21, 1982. The charge also alleged that he was similarly harassed on July 1, 1984, which resulted in his being

suspended for ten working days beginning July 12, 1982 and ending July 23, 1982.

The second charge alleged that Teamsters Union Local No. 676 ("Local 676") was engaging in unfair practices within the meaning of the Act when it "did not help him." Attached to the charge was a grievance filed by the Charging Party dated January 25, 1983 and signed by him and his shop steward, relating to his discharge from employment with PATCO effective January 28, 1983. This grievance was denied on January 26, 1983. Also attached to the charge was a letter from Local 676 President, John P. Greeley, dated March 3, 1983, which informed the Charging Party that PATCO had advised on February 28, 1983, that it would not consider reinstating him.

N.J.S.A. 34:13A-5.4(c) sets forth in pertinent part that the Commission shall have the power to prevent anyone from engaging in any unfair practice, and that it has the authority to issue a complaint stating the unfair practice charge. ^{1/} The Commission has delegated its authority to issue complaints to the undersigned and has established a standard upon which an unfair practice complaint may be issued. The standard provides that a complaint shall issue if it appears that the allegations of the charging

1/ N.J.S.A. 34:13A-5.4(c) provides: "The commission shall have exclusive power as hereinafter provided to prevent anyone from engaging in any unfair practice ... Whenever it is charged that anyone has engaged or is engaging in any such unfair practice, the commission, or any designated agent there, shall have authority to issue and cause to be served upon such party a complaint stating the specific unfair practice charged and including a notice of hearing containing the date and place of hearing before the commission or any designated agent thereof..."

party, if true, may constitute an unfair practice within the meaning of the Act and that formal proceedings in respect thereto should be instituted in order to afford the parties an opportunity to litigate relevant legal and factual issues. ^{2/} The Commission's rules provide that the undersigned may decline to issue a complaint. ^{3/}

For the reasons stated below, the undersigned has determined that the Commission's complaint standards have not been met with regard to the instant charges.

Port Authority Transit Corporation is a wholly owned subsidiary of the Delaware River Port Authority ("DRPA"). DRPA has been found by the New Jersey Supreme Court to be a bistate agency. Bell v. Bell, 83 N.J. 417 (1980).


The New Jersey Supreme Court has declared that the Commission does not have jurisdiction over bistate agencies because they are not considered to be public employers with the definition of N.J.S.A. 34:13A-3(c). Del. Riv. & Bay Auth. v. P.E.R.C., 112 N.J. Super. 160, 166 (App. Div. 1970). Thus the charge against PATCO does not state a claim against a public employer which is subject to the Act. The Commission, is therefore, without authority to issue a complaint against PATCO, and, similarly, Local 676 in its representational status for PATCO employees.

^{2/} N.J.A.C. 19:14-2.1

^{3/} N.J.A.C. 19:14-2.3

Accordingly, the undersigned declines to issue a complaint with respect to these instant charges. ^{4/}

BY ORDER OF THE ADMINISTRATOR
OF UNFAIR PRACTICE PROCEEDINGS


Joel G. Scharff, Administrator

DATED: October 15, 1984
Trenton, New Jersey

^{4/} Both charges were also not filed within six months of the occurrence of the claimed unfair practices. Under N.J.S.A. 34:13A-5.4(c), the Commission may not issue complaints with respect to unfair practice charges filed outside the above limitations period.