

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

In the Matter of

TOWNSHIP OF PARSIPPANY-TROY HILLS,

Respondent,

-and-

DOCKET NO. CO-84-14

MORRIS COUNCIL #6, NEW JERSEY
CIVIL SERVICE ASSOCIATION,

Charging Party.

SYNOPSIS

The Administrator of Unfair Practice Proceedings declines to issue a complaint with respect to an unfair practice charge alleging that the Township committed an unfair practice when it disregarded the terms of the parties' collective negotiations agreement and refused to grant four employees, two of whom were CSA shop stewards, additional vacation time. The charge does not contain a statement that the unfair practice occurred within the six months immediately preceding the filing of the charge. In addition, the charge does not contain any allegations of anti-union animus to support the claim of a violation of §§ 5.4(a)(1), (2) or (3).

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Appearances:

For the Respondent
Louis Rosner, attorney

For the Charging Party
Morris & Hantman, attorneys
(Walter C. Morris of counsel)

REFUSAL TO ISSUE COMPLAINT

On July 20, 1983, Morris Council #6, New Jersey Civil Service Association ("CSA") filed an unfair practice charge with the Public Employment Relations Commission ("Commission"). The charge, which was amended on October 13, 1983, alleged that the Township of Parsippany-Troy Hills ("Township") violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act"), specifically §§ 5.4(a)(1), (2) and (3), ^{1/} when it

1/ N.J.S.A. 34:13A-5.4(a) prohibits public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act. (2) Dominating or interfering with the formation, existence or administration of any employee organization. (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this act."

disregarded the terms of the parties' collective negotiations agreement and refused to grant four employees, two of whom were CSA shop stewards, additional vacation time.

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. ^{2/} 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. This standard provides that a complaint shall issue if it appears that the allegations of the charging party, if true, may constitute an unfair practice within the meaning of the Act. ^{3/} The Commission's rules provide that the undersigned may decline to issue a complaint. ^{4/}

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

Pursuant to N.J.S.A. 34:13A-5.4(c), the Commission is precluded from issuing a complaint where the unfair practice

^{2/} 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 thereof, shall have authority to issue and cause to be served upon such party a complaint stating the specific unfair practice and including a notice of hearing containing the date and place of hearing before the commission or any designated agent thereof..."

^{3/} N.J.A.C. 19:14-2.1

^{4/} N.J.A.C. 19:14-2.3

charge has not been filed within six months of the occurrence of the alleged unfair practice. More specifically, N.J.S.A. 34:13A-5.4(c) provides:

... provided that no complaint shall issue based upon any unfair practice occurring more than six months prior to the filing of the charge unless the person aggrieved thereby was prevented from filing such charge in which event the six months period shall be computed from the day he was no longer so prevented.

In addition, the Commission's rules provide that an unfair practice charge shall contain inter alia:

A clear and concise statement of the facts constituting the alleged unfair practice, including, where known, the time and place of occurrence of the particular acts alleged and the names of respondent's agents or other representative by whom committed and a statement of the portion or portions of the Act alleged to have been violated. (emphasis added) 5/

In reading the amended charge, the undersigned is unable to ascertain exactly, or even approximately, when the alleged unfair practice occurred. Accordingly, the undersigned would be compelled to decline to issue a complaint on that ground alone. 6/

As noted above, the Commission's rules also provide that an unfair practice charge shall contain, inter alia, "[a] clear

5/ N.J.A.C. 19:14-1.3

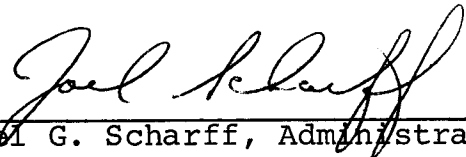
6/ The undersigned notes that by way of letters dated July 20, 1983 and August 8, 1983, CSA was requested to amend its charge to specify the dates of the acts alleged. CSA failed to comply with those requests.

and concise statement of the facts constituting the alleged unfair practice...." 7/

Even assuming that the amended charge is timely filed, it does not present any allegations of anti-union animus to support the claim of a violation of §§ (a)(1), (2) or (3). It appears to the undersigned that CSA's charge raises a dispute which is purely contractual in nature concerning vacation policy and procedure. 8/

Based upon the above analysis, the undersigned declines to issue a complaint with respect to the instant charge.

BY ORDER OF THE ADMINISTRATOR
OF UNFAIR PRACTICE PROCEEDINGS



Joel G. Scharff, Administrator

DATED: December 2, 1983
Trenton, New Jersey

7/ N.J.A.C. 19:14-1.3

8/ The dispute here apparently results from the different interpretation given Article XIV by each of the parties. In In re State of New Jersey, Dept. of Human Services, D.U.P. No. 84-11, 9 NJPER ____ (¶ ____ 1983), the Director of Unfair Practices refused to issue a complaint with respect to an unfair practice charge alleging a violation of the parties' contract since the essence of the dispute involved the parties' disagreement over the meaning of contract language.