

D.U.P. NO. 95-19

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE DIRECTOR OF UNFAIR PRACTICES

In the Matter of

SEIU LOCAL 455/74,

Respondent,

-and-

Docket No. CI-94-38

PATRICIA FREEMAN, et al.,

Charging Party.

SYNOPSIS

The Director of Unfair Practices dismisses a charge alleging that a majority representative violated the duty of fair representation by not providing "adequate" notice of a ratification vote on a proposed collective negotiations agreement.

The Director determined that the allegations did not present a "clear and concise statement of the facts" pursuant to N.J.A.C. 19:14-1.3. See also, SEIU Local 455/74 and Patricia Freeman, et al., D.U.P. No. 95-17, 21 NJPER ____ (1994).

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Appearances:

For the Respondent,
Manning, Raab, Dealy & Sturm, attorneys
(Ira A. Sturm, of counsel)

For the Charging Party,
Wills, O'Neill & Mellk, attorneys
(G. Robert Wills, of counsel)

REFUSAL TO ISSUE COMPLAINT

On December 7, 1994, I issued SEIU Local 455/74 and Patricia Freeman, et al., D.U.P. No. 95-17, 21 NJPER ____ (1____ 1994), concerning the above unfair practice charge. It was based upon a letter I had issued on November 7, 1994. A miscommunication resulted in the issuance of SEIU Local 455/74 before my receipt of Charging Party's response to the earlier letter.

On December 12, 1994, Charging Party filed a letter, together with a copy of a telefaxed certification of Patricia Freeman.^{1/} The letter states in particular:

^{1/} The certification states, "At no time did I receive notification of a ratification vote that allegedly took place on June 23, 1993...."

You state that 'the charging parties have not disputed that notices for a ratification meeting were posted.' In fact, what the charging parties have alleged is that they did not receive notification that a ratification hearing was to be held. See attached certification.... Certainly, if ratification of a contract is required, the appropriate notice must be given to all members of the bargaining unit....


Charging Party's response does not cause me to reconsider SEIU Local 455/74.

The focus of the charge has shifted from the majority representative allegedly failing to conduct a ratification meeting to the Charging Party (the named individual employees), allegedly failing to receive "sufficient" notice.

There is no allegation that notices were not posted in the schools or on bulletin boards where such notices were usually posted. This allegation about the "adequacy" of the notice is vague and contrary to the requirement for a "clear and concise statement of the facts." N.J.A.C. 19:14-1.3. Nor does this allegation, without more, implicate the majority representative's "actions surrounding ratification" SEIU and Patricia Freeman, et al., P.E.R.C. No. 94-117, 20 NJPER 275 (15139 1994).

Accordingly, I will not disturb the earlier Refusal to Issue Complaint. The charge is dismissed.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Edmund G. Gerber, Director

DATED: December 30, 1994
Trenton, New Jersey