

I.R. NO. 90-1

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CAMDEN COUNTY VOCATIONAL AND TECHNICAL
SCHOOLS BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-90-2

CAMDEN COUNTY VOCATIONAL AND TECHNICAL
SCHOOLS ADMINISTRATORS ASSOCIATION - I,

Charging Party.

SYNOPSIS

In an action brought by the Camden County Vocational and Technical Schools Administrators Association ("Association"), a Designee of the Public Employment Relations Commission declines to order the Camden County Vocational Technical Schools Board of Education ("Board") to rescind a restructuring of its administrative staff .

The Board's restructuring has reduced the size of the unit of principals represented by the Association from nine to four. This restructuring occurred during negotiations for the first contract between the parties. However, the Association failed to demonstrate it has a substantial likelihood of success in prevailing on the facts before the Commission.

I.R. NO. 90-1

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CAMDEN COUNTY VOCATIONAL AND TECHNICAL
SCHOOLS BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-90-2

CAMDEN COUNTY VOCATIONAL AND TECHNICAL
SCHOOLS ADMINISTRATORS ASSOCIATION - I,

Charging Party.

Appearances:

For the Respondent,
Davis, Reberkenny & Abramowitz, Esqs.
(William C. Davis, of counsel)

For the Charging Party
Robert M. Schwartz, Esq.

INTERLOCUTORY DECISION

On July 5, 1989, the Camden County Vocational-Technical Schools Administrators Association - I ("Association") filed an unfair practice charge with the Public Employment Relations Commission ("Commission") alleging that the Camden County Vocational-Technical School Board of Education ("Board") committed an unfair practice when it unilaterally implemented a reorganization which reduced the number of unit members from nine to four during negotiations for a first contract. It is alleged that this action constitutes an unfair practice within the meaning of the New Jersey Employer-Employee Relations Act, as amended, N.J.S.A. 34:13A-1 et seq. ("Act"); specifically, subsections 5.4(a)(1), (2), (3), (5) and

(7).^{1/} On July 6, 1989, the Association submitted an Application for Interim Relief and I issued an Order to Show Cause returnable on July 13, 1989. A hearing was conducted on that date.

The Association first requested voluntary recognition as exclusive majority representative of all principals and assistant principals from the Board on November 30, 1987. That request was denied and on January 22, 1988, the Association filed a representation petition with the Commission. The petition was subsequently amended to exclude assistant principals from the unit. The Board and Association entered into a consent election agreement. During the election campaign, the Superintendent of Schools sent a letter to members of the unit which reviewed the current level of benefits that the principals enjoyed without an exclusive majority representative. The Association prevailed in the election and was certified as the exclusive majority representative of the unit by the Commission's Director of Representation on

^{1/} These subsections prohibit 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. (5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative. (7) Violating any of the rules and regulations established by the commission."

September 9, 1988. The parties commenced negotiations in November 1988. No agreement has been reached to date. On May 12, 1989, the Board announced that it was considering a reorganization which would eliminate five of the nine principal positions. On June 18, 1989, the Board implemented the reorganization and reduced the size of the unit by five positions. The five persons who held the eliminated principal positions were offered other positions by the Board. Three became assistant principals, one became assistant superintendent and one became a teacher.

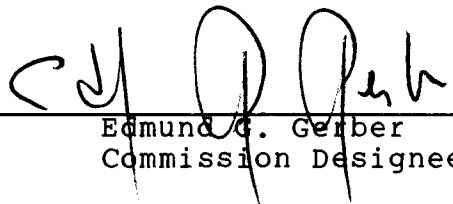
It is the Association's position that the reduction in force in the number of principals was motivated by a desire to destroy the unit and was done in retaliation for the exercise of protected activity. The Association points to the Superintendent's letter, the Board's refusal to voluntarily recognize the Association and the timing of the reorganization as proof of the Board's anti-union animus.

The Board argues that the restructuring plan was implemented because of budgetary considerations, curriculum development and administrative workload. It denies that the reorganization was motivated by anti-union animus and notes that the employee organization still exists and the Board continues to negotiate with it.

The standards that have been developed by the Commission for evaluating interim relief requests are similar to those applied by the Courts when addressing similar applications. The moving

party must demonstrate that it has a substantial likelihood of success on the legal and factual allegations in a final Commission decision and that irreparable harm will occur if the requested relief is not granted. Further, in evaluating such requests for relief, the relative hardship to the parties in granting or denying the relief must be considered.^{2/}

Here, the Association has failed to show it has a substantial likelihood of success on its factual allegations. Although the timing of the reorganization is evidence of anti-union animus, the evidence as a whole is insufficient to meet its heavy burden. Substantial questions of fact remain as to the motivation of the Boards reorganization. Accordingly, the Association's Application for Interim Relief is denied.



Edmund G. Gerber
Commission Designee

DATED: July 14, 1989
Trenton, New Jersey

^{2/} Crowe v. DeGioia, 90 N.J. 126 (1982); Tp. of Stafford, P.E.R.C. No. 76-9, 1 NJPER 59 (1975); State of New Jersey (Stockton State College), P.E.R.C. No. 76-6, 1 NJPER 41 (1975); Tp. of Little Egg Harbor, P.E.R.C. No. 94, 1 NJPER 36 (1975).