

D.U.P. NO. 2000-15

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matters of

OPEIU LOCAL 32 and,
LOCAL 32/O.C.R.,
Respondents,

-and-

Docket No. CI-98-68

JOANNE N. YUHASZ,
Charging Party.
NEW JERSEY STATE JUDICIARY
(ADMINISTRATIVE OFFICE OF THE COURTS),
Respondent,

-and-

Docket No. CI-98-69

JOANNE N. YUHASZ,
Charging Party.

SYNOPSIS

The Director of Unfair Practices dismissed the two unfair practice charges filed by Joanne Yuhasz on the grounds that the above-captioned matters are untimely and essentially identical to charges which were previously dismissed.

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matters of

OPEIU LOCAL 32 and,
LOCAL 32/O.C.R.,
Respondents,

-and-

Docket No. CI-98-68

JOANNE N. YUHASZ,
Charging Party.
NEW JERSEY STATE JUDICIARY
(ADMINISTRATIVE OFFICE OF THE COURTS),
Respondent,

-and-

Docket No. CI-98-69

JOANNE N. YUHASZ,
Charging Party.

Appearances:

For the Respondent - OPEIU Local 32,
Spear, Wilderman, Borish, Endy, Spear and Runckel,
attorneys
(Samuel L. Spear, of counsel)

For the Respondent - Judiciary,
John J. Farmer, Attorney General
(John E. Cantinello, Deputy Attorney General)

For the Charging Party,
Joanne N. Yuhasz, pro se

REFUSAL TO ISSUE COMPLAINT

On March 12, 1998, Joanne N. Yuhasz filed the
above-captioned unfair practice charges^{1/} with the Public

^{1/} Accompanying Yuhasz' respective charges were applications
for interim relief. She was advised that her applications

Employment Relations Commission alleging that the New Jersey State Judiciary, Administrative Office of the Courts, OPEIU Local 32 and Local 32/OCR, AFL-CIO, engaged in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act, specifically N.J.S.A. 34:13A-5.4.^{2/}

The Commission has authority to issue a Complaint where it appears that the Charging Party's allegations, if true, may constitute an unfair practice within the meaning of the Act. N.J.S.A. 34:13A-5.4c; N.J.A.C. 19:14-2.1. The Commission has delegated that authority to me. Where the Complaint issuance standard has not been met, I may decline to issue a Complaint. N.J.A.C. 19:14-2.3. Based upon the following, I find that the Complaint issuance standard has not been met.

On August 22, 1997, Yuhasz filed essentially identical unfair practice charges (Docket Nos. CI-98-12 and CI-98-13) against the above-captioned respondents. On January 16, 1998, almost all of the allegations contained in Docket Nos. CI-98-12 and 13 were

1/ Footnote Continued From Previous Page

were defective. On March 28, 1998, Yuhasz submitted a letter indicating that she would file a brief and certification in support of her applications within two weeks. The applications for interim relief were never perfected nor pursued by the charging party.

2/ On March 12, 1998, Yuhasz also filed an unfair practice charge against the Certified Shorthand Reporters Association of New Jersey (Docket No. CI-98-70). That charge has been dismissed. See D.U.P. No. 2000-12, 26 NJPER 159 (¶31061 2000).

dismissed. See New Jersey State Judiciary (Yuhasz), D.U.P. No. 98-30, 24 NJPER 147 (¶29074 1998) (Yuhasz 1). Not dismissed in Yuhasz 1 were the following three allegations:

[1] Respondents knowingly and intentionally did not advise and/or provide charging party and/or OCR membership with a copy of any article or clause contained within the 1995-1999 collective negotiations agreement permanently ratifying OPEIU Local 32/OCR as the exclusive negotiations representative.

[2] Respondents misrepresented or altered the 1995-1999 collective negotiations agreement and specifically the grievance procedure of that contract with the intent of preventing Yuhasz and other certified shorthand reporters from filing and processing grievances.

[3] [t]hat a letter dated August 12, 1997 from Patrick Tully [Local 32's Business Manager] to the charging party was deceitful and fraudulent in that it provided misrepresentation. (However, the charge did not allege what was contained in that letter nor did the charging party submit a copy of this letter with the charge.) [24 NJPER at 148.]

The Director of Unfair Practices indicated in Yuhasz 1 that the allegations contained in the first two paragraphs quoted immediately above did not satisfy N.J.A.C. 19:14-1.3a(3) which requires a charge to contain "a clear and concise statement of the facts constituting the alleged unfair practice." The Director provided Yuhasz with the opportunity to amend her charge to allege when she first requested that the respondents provide her with a copy of the current collective negotiations agreement.

With regard to the third paragraph quoted above, the Director similarly provided Yuhasz with the opportunity to submit

documentation and/or an allegation in support of her claim that the August 12, 1997 letter from Patrick Tully was fraudulent and a misrepresentation. Id. at 149.

On April 22, 1999, I advised Yuhasz that she had not yet filed the required amendments to docket numbers CI-98-12 and CI-98-13 as required by Yuhasz 1, and provided her with extra time to file such additional information, amendments, and supporting materials. Having received no response within the time frame established, on May 27, 1999, Docket Nos. CI-98-12 and 13 were deemed withdrawn and the cases were closed.

For the reasons stated in Yuhasz 1, I now dismiss Yuhasz' identical allegations contained in CI-98-68 and CI-98-69. N.J.A.C. 19:14-1.3a(3) requires a charge to contain the following:

A clear and concise statement of the facts constituting the alleged unfair practice. The statement must specify the time and place the alleged acts occurred, the names of the persons alleged to have committed such acts and the subsection(s) of the Act alleged to have been violated.

As noted above, in Yuhasz 1, the Director dismissed all but three of Yuhasz' allegations in that decision. The three remaining allegations were subsequently deemed withdrawn and the unfair practice charges (Docket No. CI-98-12 and CI-98-13) were closed. On March 12, 1998, Yuhasz filed the above-captioned matters which were essentially identical to Docket Nos. CI-98-12 and CI-98-13. The above-captioned allegations, like CI-98-12 and CI-98-13, did not comply with N.J.A.C. 19:14-1.3a(3). Charging party did not submit

supporting documents and/or amendments as required by Yuhasz 1. Yuhasz' subsequent refiling of identical unfair practice charges does not serve to extend the time frame which was provided to her in Yuhasz 1 and by my April 22, 1999 letter. Consequently, I find that Yuhasz has not complied with N.J.A.C. 19:14-1.3a(3) and the above-captioned unfair practice charges are dismissed.

Additionally, the above-captioned unfair practice charges are dismissed on the grounds that they were filed beyond the statute of limitations provided by the Act. N.J.S.A. 34:13A-5.4c provides, in pertinent part:

... no complaint shall issue based upon any unfair practice occurring more than 6 months prior to the filing of the charge unless the person aggrieved thereby was prevented from filing such charge in which event the 6-month period shall be computed from the day he was no longer so prevented.

Yuhasz claims that respondents did not advise or provide her with a copy of any contact provision ratifying OPEIU Local 32/OCR as the exclusive negotiations representative. In New Jersey State Judiciary, H.E. No. 98-18, 24 NJPER 143 (¶29072 1997), the hearing examiner found that at least since December 6, 1994, Local 32 had been the exclusive majority representative for Yuhasz' collective negotiations unit. The hearing examiner also found that by letter dated October 11, 1994, Patrick J. Tully, Business Manager of Local 32, advised the court reporters of the results of a Commission conducted representation election and, simultaneously, enclosed highlights of a tentative labor agreement to cover the

period July 1, 1992 through June 30, 1995 in preparation for a ratification vote among unit members. 24 NJPER at 144. Thus, the issue of unit members being advised that OPEIU Local 32 was to become the permanent exclusive negotiations representative for the collective negotiations agreement which included Yuhasz was addressed in 1994 at the time of the election and is well outside of the six-month statute of limitation contained in the Act. N.J.S.A. 34:13A-5.4c.

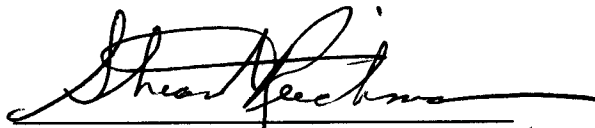
Likewise, Yuhasz' allegation that Tully's August 12, 1997 letter to charging party was deceitful and fraudulent is also untimely. The above-captioned charges, each of which include reference to the letter, were filed more than six months after the letter. Thus, this allegation must also be dismissed on timeliness grounds.

I find that Yuhasz' allegation that the respondent misrepresented or altered the 1995-1999 collective agreement, specifically the grievance procedure, with the intent of preventing her from filing and processing grievances, must also be dismissed as untimely. Not later than August 22, 1997, Yuhasz was aware of her claim that respondents allegedly misrepresented or altered the 1995-1997 collective negotiations agreement with the intent of preventing her from filing and processing grievances. The above-captioned unfair practice charges were filed on March 12, 1998, more than six months from the date she knew of this claim. Consequently, this allegation is beyond the statute of limitations and must be dismissed.

ORDER

The above-captioned unfair practice charges are dismissed.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES



Stuart Reichman, Director

DATED: May 2, 2000
Trenton, New Jersey