

D.U.P. NO. 93-38

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

In the Matter of

BOROUGH OF FLEMINGTON,

Respondent,

-and-

Docket No. CI-93-67

JAMES YARD, PRO SE,

Charging Party.

SYNOPSIS

The Director of Unfair Practices dismisses a charge filed by a municipal employee alleging that the Borough of Flemington changed the employees' health care coverage and instituted a copayment without first negotiating with the employees.

The Director finds that the employer did not violate the Act because it had no obligation to negotiate with individual, unrepresented employees prior to changing their terms and conditions of employment.

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Appearances:

For the Respondent,
Alexander Keating, Borough Administrator

For the Charging Party,
James Yard, pro se

REFUSAL TO ISSUE COMPLAINT

On March 3, 1993, James Yard, individually and on behalf of certain unnamed Borough employees, filed an unfair practice charge against the Borough of Flemington. The charge alleges that the Borough violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically subsections 5.4(a)(5)^{1/} by changing the employees' health care coverage, effective November 10, 1992 and the co-payments effective January 1, 1993, without first negotiating these changes with the employees.

^{1/} This subsection prohibit public employers, their representatives or agents from "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."

Yard's charge states that, at the time of the alleged changes, the employees were not represented by a negotiations representative. In fact, on December 21, 1992, Teamsters Local 866 filed a representation petition for the Borough's then unrepresented blue collar and white collar employees, including Yard's position. Based on that petition, we conducted an election among the employees and certified Local 866 as the employees' negotiations agent on March 1, 1993.

N.J.S.A. 34:13A-5.3 provides,

A majority representative of public employees in an appropriate unit shall be entitled to act for and to negotiate agreements covering all employees in the unit and shall be responsible for representing the interest of all such employees...Proposed new rules or modifications of existing rules governing working conditions shall be negotiated with the majority representative before they are established.

Thus, the Act requires an employer to negotiate only with the recognized or certified employee representative over employees' terms and conditions of employment, including health care benefits. The employer is not required to negotiate directly with the employees. Where there is no negotiations representative, the employer has no negotiations obligation prior to changing terms and conditions of employment.

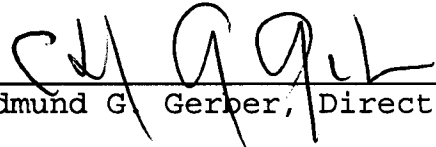
Based upon the foregoing, I find that the the Borough did not violate the Act by failing to negotiate with the employees before changing their health care benefits. Accordingly, the charge does not meet the Commission's complaint issuance standard, and I

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will not issue a complaint on the allegations of this charge. The charge is dismissed.^{2/}

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Edmund G. Gerber, Director

DATED: April 29, 1993
Trenton, New Jersey

^{2/} N.J.A.C. 19:14-1.5.