

D.U.P. NO. 88-15

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

In the Matter of

CAMDEN COUNTY BOARD OF
CHOSEN FREEHOLDERS,

Respondent,

-and-

Docket No. CO-88-196

AFSCME, COUNCIL 71,

Charging Party.

SYNOPSIS

The Director of Unfair Practices refuses to issue a complaint on a charge filed more than 20 months outside the limitations period of N.J.S.A. 34:13A-5.4(c).

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Appearances:

For the Respondent
Howard L. Goldberg, Esq.

For the Charging Party
Robert C. Little, Staff Representative

REFUSAL TO ISSUE COMPLAINT

On February 4, 1988, AFSCME, Council 71, Locals 2301, 2305 and 2307 ("Council 71") filed an Unfair Practice Charge alleging that Camden County violated subsection 5.4(a)(5)^{1/} of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act"), by implementing a policy that changed unit employees' terms and conditions of employment. On February 5, 1988, the Director of

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

Unfair Practices advised Council 71 that its charge would not be processed unless amended to conform with N.J.A.C. 19:14-1.3, which requires that a charge contain:

...a clear and concise statement of the facts constituting the alleged unfair practice, including, where known, the time and place of the occurrence of the particular acts alleged and the names of respondents, agents or other representatives by whom committed....

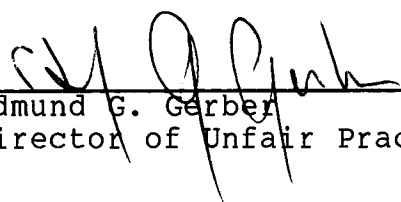
On February 24, 1988, AFSCME amended its charge by alleging that the County instituted a policy inconsistent with language contained in the parties' collective agreement concerning the entitlements of employees returning from authorized leave. Council 71 alleged that on April 1 and May 19, 1986, the County denied two employees earned sick and vacation time upon their return from leave. Attached to the charge as an exhibit was a copy of County policy number 46.1, which covered employee accrual of vacation and sick leave while on workers' compensation. The effective date of this policy was February 14, 1985.

On February 25, 1988, a Commission staff agent scheduled an exploratory conference for March 14, 1988, which was later adjourned on the request of Council 71 because a related matter was being litigated in the Appellate Division. The exploratory conference was later rescheduled to May 9, 1988.

N.J.S.A. 34:13A-5.4(c) precludes the Commission from issuing a complaint where an unfair practice charge has not been filed within six months of the occurrence of any unfair practice, unless the aggrieved person was prevented from filing a charge. The

alleged unfair practices occurred in April and May 1986. The original charge was not filed until February 4, 1988, more than twenty months outside the limitations period provided by the Act. Council 71 was aware in Spring 1986, of the events that it alleges constitute an unfair practice. Council 71 presented no reason for failing to file a timely charge. We therefore refuse to issue a complaint. See No. Warren Bd. of Ed., D.U.P. No. 78-7, 4 NJPER 955 (¶4026 1977); N.J. Turnpike Employees' Union, Local 194 IFPTE, AFL-CIO, P.E.R.C No. 80-38, 5 NJPER 412 (¶10215 19789).

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES



Edmund G. Gerber
Director of Unfair Practices

DATED: May 16, 1988
Trenton, New Jersey