

STATE OF NEW JERSEY
BEFORE A HEARING EXAMINER OF THE PUBLIC EMPLOYMENT
RELATIONS COMMISSION

In the Matter of

UNION COUNTY BOARD OF FREEHOLDERS

Respondent,

- and -

Docket No. CO-77-237-127

UNION COUNCIL NO. 8, N.J. CIVIL
SERVICE ASSOCIATION

Charging Party.

SYNOPSIS

A Hearing Examiner recommends to the Public Employment Relations Commission that charges of unfair practices filed by the Association be dismissed for want of prosecution. A Complaint and Notice of Hearing was issued May 25, 1977 and at a pre-hearing on July 5, 1977 the parties requested an indefinite adjournment of hearing date pending settlement of the underlying issue in negotiations for a successor agreement.

In view of the lapse of more than six months since the pre-hearing date of July 5, 1977 the Hearing Examiner concludes and recommends that the charges of unfair practices be dismissed for want of prosecution.

A Hearing Examiner's Recommended Report and Decision is not a final administrative determination of the Public Employment Relations Commission. The case is transferred to the Commission which reviews the Recommended Report and Decision, any exceptions thereto filed by the parties, and the record, and issues a decision which may adopt, reject or modify the Hearing Examiner's conclusions and recommendations.

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Appearances:

For the Union County Board of Freeholders
Weinberg, Manoff and Dietz, Esqs.
(Irwin Weinberg, Esq.)

For the Union Council No. 8, N. J. Civil Service Association
Fox and Fox, Esqs.
(David I. Fox, Esq.)

HEARING EXAMINER'S RECOMMENDED
REPORT AND ORDER

An Unfair Practice Charge was filed with the Public Employment Relations Commission (hereinafter the "Commission") on February 28, 1977 by the Union Council No. 8, N.J. Civil Service Association (hereinafter the "Association") alleging that the Union County Board of Freeholders (hereinafter the "County") has engaged in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act, as amended, N.J.S.A. 34:13A-1 et seq. (hereinafter the "Act"), in that the County had failed to pay holiday rates for all employees who worked either on Friday, February 11 or Saturday, February 12, 1977, Lincoln's Birthday, all of which was in accordance with past practice under previous agreements, which is alleged to be a violation of N.J.S.A. 34:13A-5.4(a)(1), (3), (4), (5), (6) and (7).^{1/}

1/ These subsections prohibit 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.

"(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.

"(4) Discharging or otherwise discriminating against any employee because he has signed or filed an affidavit, petition or complaint or given any information or testimony under this Act.

(cont'd.)

It appearing that the allegations of the charge, if true, may constitute unfair practices within the meaning of the Act, a Complaint and Notice of Hearing was issued on May 25, 1977.

Pursuant to the Complaint and Notice of Hearing, a pre-hearing was held in Newark, New Jersey on July 5, 1977, at which time the parties requested that the hearing scheduled for July 12, 1977 be adjourned without date since the parties were in negotiations for a successor agreement and each held out the possibility, if not the probability, that the substance of the unfair labor practice charge would be settled.

Thereafter, the Hearing Examiner kept in touch with the parties by their counsel and the Hearing Examiner was informed that negotiations were continuing as of August and September 1977.

In order to expedite the resolution of the matter the Hearing Examiner fixed September 16, 1977 as the date for hearing. Upon request of the parties, this date was adjourned without hearing date pending further negotiations for a successor agreement.

Early in November 1977, the Hearing Examiner was informed by counsel for the Association that the successor collective negotiations agreement had been settled and that a withdrawal would be forthcoming. The Hearing Examiner forwarded to counsel for the Association a withdrawal request and has since that date repeatedly sought and solicited the withdrawal request form.

However, in view of the fact that counsel for the Association has refused and neglected to submit a withdrawal request, the Hearing Examiner is of the opinion, and concludes, that there should be final disposition of this matter. Accordingly, the Hearing Examiner recommends that the instant charge of unfair practices by the Association be dismissed for want of prosecution.

RECOMMENDED ORDER

In view of the failure and refusal of the Association to proceed to hear-

1/ (cont'd.)

"(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.

"(6) Refusing to reduce a negotiated agreement to writing and to sign such agreement.

"(7) Violating any of the rules and regulations established by the Commission."

ing or withdraw the instant charges of unfair practices, the Hearing Examiner ORDERS that the instant charges of unfair practices be dismissed for want of prosecution.



Alan R. Howe
Alan R. Howe
Hearing Examiner

DATED: February 3, 1978
Trenton, New Jersey