

D.U.P. NO. 98-6

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

In the Matter of

AFSCME COUNCIL 52, LOCAL 2273,  
& COUNTY OF PASSAIC (PREAKNESS HOSPITAL),

Respondents,

-and-

Docket Nos. CI-97-88  
CI-97-89

DEBORAH M. SNOWDEN,

Charging Party.

SYNOPSIS

The Director of Unfair Practices dismisses an unfair practice charge which alleged that Local 2273 violated its duty of fair representation. Snowden, the charging party, alleges a hearing challenging her disciplinary suspension was scheduled. At the scheduled time of the hearing, she was at the hairdresser and called the union to request a continuance but the hearing officer denied the request.

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Charging Party.

Appearances:

For the Charging Party  
Deborah M. Snowden, pro se

REFUSAL TO ISSUE COMPLAINT

On June 11, 1997, Deborah M. Snowden filed an unfair practice charge with the Public Employment Relations Commission alleging that AFSCME Council 52, Local 2273 and the County of Passaic committed unfair practices within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. The charges were amended on July 21, 1997.

Apparently, a hearing officer's decision dated November 20, 1996, sustained a disciplinary suspension of Snowden. Local 2273 contested the decision and a re-hearing was scheduled for 1:30 p.m. on March 20, 1997. Snowden admits in her charge that at the scheduled time of the hearing she was at the hairdresser. She called and informed the union that she was running behind schedule and could not appear at the hearing until later that afternoon.

The hearing officer would not grant a continuance and ruled that the prior hearing officer's decision would stand.

Snowden alleges that the hearing was scheduled on her day off and seems to allege that the union colluded with the County in not pressing for a continuance on the afternoon of March 20.

The Commission's complaint issuance standard has not been met. N.J.A.C. 19:14-2.1 provides, in part:

(a) After a charge has been processed, if it appears to the Director of Unfair Practices that the allegations of the charge, if true, may constitute unfair practices on the part of the respondent, and that formal proceedings should be instituted....

2. A statement of the legal authority and jurisdiction under which the hearing is to be held;....


Based on the facts alleged, I do not believe formal proceedings should be instituted in this matter.

Even if the union did not object to the hearing officer's ruling, under these circumstances such conduct does not constitute an unfair practice within the meaning of the Act.

It is also noted that Snowden did not provide proof of service upon all parties as required by N.J.A.C. 19:14-1.4. Nor did she include the subsections of the Act she believed were violated. N.J.A.C. 19:14-1.3(3).

The unfair practice charge is dismissed.

BY ORDER OF THE DIRECTOR  
OF UNFAIR PRACTICES

  
Edmund G. Gerber, Director

DATED: August 6, 1997  
Trenton, New Jersey