

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

In the Matter of

NEWARK BUILDING TRADES COUNCIL,

Respondent,

-and-

DOCKET NO. CI-82-8

MICHAEL COOPER,

Charging Party.

SYNOPSIS

The Director of Unfair Practices declines to issue a complaint with respect to certain allegations of a charging party that his majority representative engaged in improper contract ratification procedures. The Director notes that the selection of a ratification procedure is considered an internal union matter. The Director also declines to issue a complaint with respect to allegations that the majority representative improperly influenced union members in favor of the ratification of a contract. Such conduct, if true, does not amount to interference, restraint or coercion in the exercise of protected rights.

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Appearances

For the Respondent

Parsonnet, Duggan & Pykon, Esqs.  
(Victor J. Parsonnet, of Counsel)

For the Charging Party

Michael Cooper, Pro Se

REFUSAL TO ISSUE COMPLAINT

An Unfair Practice Charge was filed with the Public Employment Relations Commission (the "Commission") on July 31, 1981 and amended on August 18, 1981, by Michael Cooper (the "Charging Party") against the Newark Building Trades Council (the "Trades Council") alleging that the Respondent was engaging in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act"), specifically N.J.S.A. 34:13A-5.4(b)(1), (2), (3), (4) and (5). <sup>1/</sup>

<sup>1/</sup> These subsections prohibit public employee organizations, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this Act. (2) Interfering with, restraining or coercing a public employer in the selection of his representative for the purposes of negotiations or the adjustment of grievances. (3) Refusing to negotiate in good faith with a public employer, if they are the majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit. (4) Refusing to reduce a negotiated agreement to writing and to sign such agreement. (5) Violating any of the rules and regulations established by the Commission.

N.J.S.A. 34:13A-5.4(c) sets forth in pertinent part that the Commission shall have the power to prevent anyone from engaging in any unfair practice, and that it has the authority to issue a complaint stating the unfair practice charge. <sup>2/</sup> The Commission has delegated its authority to issue complaints to the undersigned and has established a standard upon which an unfair practice complaint may be issued. This standard provides that a complaint shall issue if it appears that the allegations of the charging party, if true, may constitute an unfair practice within the meaning of the Act. <sup>3/</sup> The Commission's rules provide that the undersigned may decline to issue a complaint. <sup>4/</sup>

For the following reasons the undersigned has determined that the Commission's complaint issuance standard has not been met.

The instant unfair practice matter concerns the contract ratification procedures utilized by the Trades Council, an amalgamation of several trade unions, in approving a collective negotiations agreement with the Newark Board of Education. The Charging Party is employed as a painter with the Board. He alleges that contract ratification procedures undertaken by the Trades Council were unfair, specifically that no mass ratification meeting took place but instead a vote was taken

<sup>2/</sup> N.J.S.A. 34:13A-5.4(c) provides: "The commission shall have exclusive power as hereinafter provided to prevent anyone from engaging in any unfair practice ... Whenever it is charged that anyone has engaged or is engaging in any such unfair practice, the commission, or any designated agent thereof, shall have authority to issue and cause to be served upon such party a complaint stating the specific unfair practice and including a notice of hearing containing the date and place of hearing before the commission or any designated agent thereof..."

<sup>3/</sup> N.J.A.C. 19:14-2.1

<sup>4/</sup> N.J.A.C. 19:14-2.3

on a local basis. Further, the Charging Party alleges that the ratification votes were not taken by secret written ballot and that the votes were incorrectly tabulated. In addition, the Charging Party alleges that certain employees represented by the Respondent were intimidated and coerced in the exercise of their rights under the Act, with the effect of changing their vote on the proposed contract.

Initially, the undersigned notes that subsections 5.4(b) (2), (3), (4) and (5), supra, n.1, are inapplicable to the facts asserted herein. The significant issue presented is whether the ratification procedures utilized by the Trades Council and its representatives interfered with rights protected by the Act and thus may constitute a violation under 5.4(b) (1).

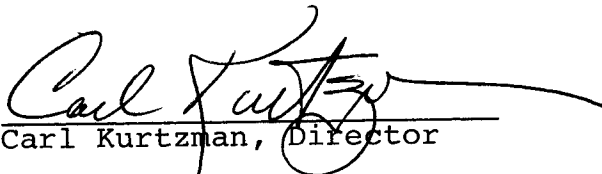
The Act does not prescribe any procedure for the ratification of collective agreements. The selection of a ratification procedure by an employee representative is considered an internal union matter. Accordingly, in the absence of an unfair representation claim, i.e. that the ratification procedure specifically discriminates against the charging party, there is no basis for the issuance of a complaint. This appears not to be the case herein, since the procedures complained of are equally applied to all unit members. If the Charging Party is concerned that the conduct of Trades Council representatives was in violation of the Council's own constitution and by-laws, the appropriate remedy may be forthcoming in a judicial forum. This reasoning is also applicable to the claim that certain business agents wrongfully tabulated the vote.

The remainder of the instant Charge concerns claims that certain Union officials improperly influenced union members to vote in

favor of the ratification of a contract. According to the Charging Party employees were told that rejection of the agreement would result in a strike. In the judgment of the undersigned this conduct, even if true, does not amount to interference, restraint, or coercion in the exercise of protected rights.

Accordingly, for the above reason, the undersigned declines to issue a complaint.

BY ORDER OF THE DIRECTOR  
OF UNFAIR PRACTICES

  
Carl Kurtzman, Director

DATED: May 18, 1982  
Trenton, New Jersey