

D.U.P. NO. 87-19

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

In the Matter of

GREATER EGG HARBOR REGIONAL  
SCHOOL DISTRICT,

Respondent,

-and-

Docket No. CO-87-253

TRANSPORT WORKERS OF AMERICA,  
LOCAL 225, BRANCH 4,

Charging Party.

SYNOPSIS

The Director of Unfair Practices refuses to issue a Complaint with respect to an unfair practice charge filed by the Transport Workers of America, Local 224, Branch 4 against the Greater Egg Harbor Regional School District. The charge alleged that the District unlawfully continued to withhold membership dues for the employee organization that preceded TWU as the majority representative. The Director found that, pursuant to N.J.S.A. 52:14-15.9e, requests for employees to withdraw dues deduction authorizations made after January 1, 1987 are effective as of July 1, 1987 and that the charge did not allege that any withdrawal requests were made before January 1, 1987 and not honored on that date.

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Appearances:

For the Respondent  
D.J. Brandon & Co.  
(Daniel J. Brandon)

For the Charging Party  
William J. Ernst, President

REFUSAL TO ISSUE COMPLAINT

On March 3, 1987 the Transport Workers Union of America, Local 225, Branch 4, AFL-CIO ("TWU") filed an unfair practice charge against the Greater Egg Harbor Regional School District ("District"). The charge alleges that the District violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically subsections 5.4(a)(1), (2) and (3),<sup>1/</sup> by continuing

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<sup>1/</sup> These subsections prohibit public 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; (2) Dominating or interfering with the formation, existence or administration of any employee organization; (3) Discriminating in regard to

to withhold membership dues for the employee organization that preceded TWU as the majority representative for the District's secretaries, data-keypunch operators, clerks, custodians, grounds keepers, maintenance workers, cafeteria personnel and bus drivers.

N.J.S.A. 34:13A-5.4(c) provides 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>

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1/ Footnote Continued From Previous Page

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."

2/ N.J.S.A. 34:13A-5.4(c) provides, in part:

The Commission shall have exclusive power as hereinafter provided to prevent anyone from engaging in any unfair practice listed in subsections a. and b. above. 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 charged and including a notice of hearing containing the date and place of hearing before the Commission or any designated agent thereof; provided that no complaint shall issue based upon any unfair practice occurring more than 6 months prior to the filing of the charge unless the person aggrieved thereby was prevented from filing such charge in which event the 6 months period shall be computed from the day he was no longer so prevented.

The Commission has delegated its authority to issue Complaints to the Director of Unfair Practices and has established a standard upon which unfair practice Complaints shall be issued. The standard provides that a Complaint shall issue if it appears that the allegations of the charging party, if true, may constitute unfair practices within the meaning of the Act.<sup>3/</sup> and the Commission's rules provide that the Director may decline to issue a Complaint where appropriate.<sup>4/</sup>

TWU attached to its charge a letter from its local president to the District's secretary-business administrator. That letter indicates that TWU was certified as the exclusive negotiations representative for the above employees on January 2, 1987. The letter further indicates that TWU's president conferred with the secretary-business administrator on February 3, 1987 regarding the previous majority representative's request to the District that the District continue deducting membership dues for all employees who were formerly members of that association.

A public employer's duty to deduct membership dues to an employee organization and its obligations when an employee withdraws a request for such deductions is governed by N.J.S.A. 52:14-15.9e. It establishes a written authorization procedure for employees who seek to have deductions made from their compensation and

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

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

specifically prescribes when notices of withdrawal become effective. It provides, in part:

Any such written organization may be withdrawn by such person holding employment at any time by the filing of notice of such withdrawal with the above-mentioned disbursing officer. The filing of notice of withdrawal shall be effective to halt deductions as of January 1 or July 1 next succeeding the date on which notice of withdrawal is filed....<sup>5/</sup>

Based on the allegations in the charge, it is apparent that TWU became the majority representative on January 2, 1987 and that its first post-certification meeting with management took place on February 3. Any requests by employees to withdraw their written authorizations for dues deductions made after January 1, 1987 are effective as of July 1, 1987. Id. The charge does not allege that any withdrawal requests were made before January 1, 1987 and not honored on that date.

On April 30, 1987, we advised the parties that we were inclined to refuse to issue a Complaint on this charge and invited them to present additional statements of position and/or additional factual information which would warrant the issuance of a Complaint. Neither party submitted additional materials. Accordingly, we have determined that the Commission's Complaint

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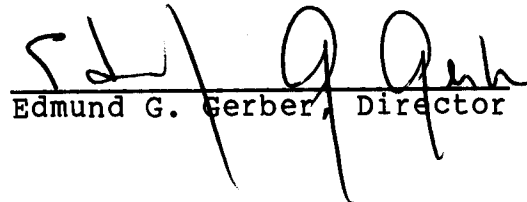
<sup>5/</sup> N.J.S.A. 52:14-15.9e also provides that a public employer and a majority representative may agree in their collective negotiations agreement that unit employees may only request dues deductions to the majority representative. However, such exclusive dues deduction provisions do not apply to units in school districts.

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issuance standard has not been met and refuse to issue a Complaint  
in this matter.

BY ORDER OF THE DIRECTOR  
OF UNFAIR PRACTICES

  
Edmund G. Gerber, Director

DATED: May 22, 1987  
Trenton, New Jersey