

D.U.P. NO. 98-25

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

In the Matter of

UNITED FOOD AND COMMERICAL
WORKERS UNION, LOCAL 1360,

Respondent,

-and-

Docket No. CI-98-8

DARLENE WATSON,

Charging Party.

SYNOPSIS

The Director of Unfair Practices dismisses a charge filed by an individual employee alleging her majority representative denied her union membership, which the employee asserts resulted in her layoff. The Director finds that the charge was filed more than six months after the employee was laid off, and therefore was beyond the six-month statute of limitations.

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Appearances:

For the Respondent,
Spear, Wilderman, Endy, Spear & Runckel, attorneys
(Warren Borish, of counsel)

For the Charging Party,
Darlene Watson, pro se

REFUSAL TO ISSUE COMPLAINT

On August 15, 1997, Darlene Watson filed an unfair practice charge with the Public Employment Relations Commission alleging that Local 1360, United Food and Commercial Workers violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A et seq., 5.4b(1), (3), (4) and (5)^{1/} by preventing her from becoming a

^{1/} These provisions prohibit 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. (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."

union member, thus depriving her of a permanent job with the Camden City Parking Authority, which in turn, resulted in her lay-off from the Authority.

Local 1360 asserts that Watson was laid off in December, 1993 and recalled along with other employees in 1995. Other laid-off workers, who were not then recalled, filed grievances alleging that they had greater contractual seniority and should have been recalled first. On September 6, 1996, Arbitrator Joan Parker sustained the grievance and ordered the Authority to rehire these employees from the recall list. To implement the arbitration award, the Parking Authority laid off Watson and another employee on January 31, 1997.

Local 1360 denies that Watson was refused union membership, but asserts that, even if she had been, membership was not a factor in the Parking Authority's determination to lay Watson off in January, 1997.

This charge was not filed within the statutory time limitations. N.J.S.A. 34:13A-5.4(c) provides:

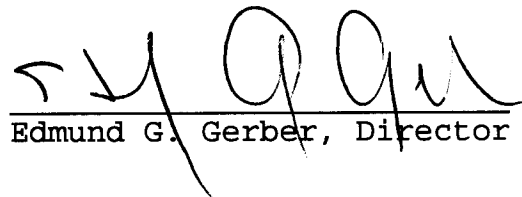
that no complaint shall issue based upon any unfair practice occurring more than 6 months prior to the filing of the charge unless the person aggrieved thereby was prevented from filing such charge in which event the 6 months period shall be computed from the day he was no longer so prevented.

See State of New Jersey, D.U.P. No. 93-18, 19 NJPER 75 (¶24034 1992).

Here, all of the events of the charge occurred on or prior to January 31, 1997, the date of Watson's most recent layoff.

However, Watson filed her charge on August 15, 1997. Therefore, Watson's allegations against Local 1360 are beyond the six-month statute of limitations set forth in N.J.S.A. 34:13A-5.4(c). Accordingly, a Complaint will not issue on this matter and the charge is dismissed.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES



Edmund G. Gerber, Director

DATED: December 3, 1997
Trenton, New Jersey