

D.U.P. NO. 2000-12

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CERTIFIED SHORTHAND REPORTERS
ASSOCIATION OF NEW JERSEY,

Respondent,

-and-

Docket No. CI-98-70

JOANNE N. YUHASZ,

Charging Party.

SYNOPSIS

The Director of Unfair Practices declines to issue a complaint on an unfair practice charge filed by Joanne N. Yuhasz against the Certified Shorthand Reporters Association of New Jersey (CSRA). The Director found that most of the claims alleged in Yuhasz' charge were untimely. The Director also found that even assuming any of the claims were timely, the CSRA was no longer the majority representative at the times relevant to the unfair practice charge and owed no duty to represent Yuhasz.

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CERTIFIED SHORTHAND REPORTERS
ASSOCIATION OF NEW JERSEY,

Respondent,

-and-

Docket No. CI-98-70

JOANNE N. YUHASZ,

Charging Party.

Appearances:

For the Respondent,
DeVeux & Seidman, attorneys
(Bruce A. Seidman, of counsel)

For the Charging Party,
Joanne N. Yuhasz, pro se

REFUSAL TO ISSUE COMPLAINT

On March 12, 1998, Joanne N. Yuhasz filed an unfair practice charge against the Certified Shorthand Reporters Association of New Jersey (CSRA).^{1/} Yuhasz alleges that she is part of a collective negotiations unit represented by CSRA in conjunction with OPEIU Local 32, AFL-CIO. Yuhasz contends that the CSRA violated the Act and Commission Rules by failing to submit a

^{1/} Accompanying Yuhasz' charge, was an application for interim relief. Yuhasz was advised that her application for interim relief was defective. On March 28, 1998, Yuhasz submitted a letter indicating that she would file a brief and certification in support of her application for interim relief within two weeks. The application for interim relief was neither perfected nor pursued by the charging party.

copy of a document entitled "Terms for a Possible Affiliation". She further alleges that the CSRA knowingly and intentionally dominated, interfered and coerced her to ratify a one-year probationary affiliation between Local 32 and the CSRA. She claims that the CSRA did not provide her with a copy of any article or clause contained in the 1995-1999 collective negotiations agreement permanently ratifying Local 32 as the exclusive negotiations representative. She further asserts that the CSRA breached its duty of fair representation by altering in May 1995, Article VII of the 1992-1995 collective agreement, failing to notify her or provide the altered Article VII, failing to notify or provide a copy of the 1992-1995 collective agreement for review before a ratification vote, intentionally misrepresenting the terms of the 1995-1999 collective agreement before the ratification vote, failing to notify her of the changes in the grievance procedure contained in the 1995-1999 collective agreement, failing to provide a copy of the 1995-1999 collective agreement for review before the ratification vote, failing to process grievances on behalf of the charging party, failing to supply a copy of an unfair practice charge (Docket No. CO-97-310) filed on March 12, 1997 and to advise charging party as to the status of the charge, and failing to advise that the unfair practice charge (Docket No. CO-97-310) was withdrawn on July 9, 1997. Yuhasz also contends that in a letter dated August 12, 1997, Local 32 failed to advise or provide her with the entire substance of Articles 7, 29 and the grievance procedure of the 1995-1999

collective agreement and failed to provide her with a copy of the 1995-1999 collective agreement for review before it was signed.

The Commission has authority to issue a Complaint where it appears that the Charging Party's allegations, if true, may constitute an unfair practice within the meaning of the Act. N.J.S.A. 34:13A-5.4c; N.J.A.C. 19:14-2.1. The Commission has delegated that authority to me. Where the Complaint issuance standard has not been met, I may decline to issue a Complaint. N.J.A.C. 19:14-2.3. Based upon the following, I find that the Complaint issuance standard has not been met.

I take administrative notice of New Jersey State Judiciary, H.E. No. 98-18, 24 NJPER 143 (¶29072 1997). In that case, the hearing examiner addressed some of the same issues raised in this matter. The hearing examiner found, in relevant part, the following:

CSRA-NJ is the employee organization that represented the official court reporters of New Jersey ("OCRs") in June 1994. On June 28, 1994, the OCRs and Local 32 entered into an agreement entitled, TERMS FOR A POSSIBLE AFFILIATION BETWEEN Official Court Reporters of the State of New Jersey and Local 32, Office and Professional Employees International Union, AFL-CIO.

4. By letter dated July 11, 1994, then president of CSRA-NJ, Kathleen M. Shapiro, informed CSRA-NJ membership that 50 of 51 OCRs in attendance on June 28 voted to change representation by voting to affiliate with Local 32. President Shapiro also wrote that CSRA-NJ 'will no longer serve as bargaining agent for official reporters' and '...we respect the decision of the official reporters and withdraw our representation accordingly.'

5. I take administrative notice of the following:

(a) On July 22, 1994, the Commission received a timely representation petition filed by Local 32 to be the exclusive majority representative of all OCRs. On the face of the petition, CSRA-NJ is named as the recognized or certified majority representative.

(b) As a result, by letter dated July 28, 1994, the Director of Representation invited CSRA-NJ to intervene in the representation matter pursuant to N.J.A.C. 19:11-2.7. By letter dated August 8, 1994, CSRA-NJ advised the Director that it had no interest in intervening to represent the OCRs. Consequently, a secret ballot election was arranged without the participation of CSRA-NJ.

(c) The Agreement for Consent Election entered into by the AOC and Local 32, dated August 16, 1994, provided that if a majority of valid ballots cast in the election were in favor of representation by Local 32, then the AOC would grant recognition to Local 32 as the majority representative of all official court reporters employed by the State of New Jersey.

(d) A mail ballot election count was held on September 29, 1994. By a vote of 91 to 3, Local 32 was elected as the majority representative of OCRs. By letter dated December 6, 1994, the AOC, under the signature of Mark Rosenbaum, Chief of Employee Relations, granted recognition to Local 32 as the exclusive representative for all OCRs employed by the State of New Jersey. [Id. at 144].

It is clear from the hearing examiner's findings of fact that the CSRA officially withdrew its representative status on July 11, 1994. The hearing examiner concluded that "[a]s a matter of law, since at least December 6, 1994 Local 32 has been the exclusive majority representative for all court reporters employed by the AOC" (footnote omitted). Id. at 145.

First, many of the allegations contained in the charge do not specify dates when the alleged events occurred. N.J.A.C.

19:14-1.3(a) requires that a charge contain:

3. A clear and concise statement of the facts constituting the alleged unfair practice. The statement must specify the time and place the alleged acts occurred, the names of the persons alleged to have committed such acts and the subsection(s) of the Act alleged to have been violated. [emphasis added]

The Commission is precluded from issuing a complaint concerning any allegation not occurring within six months prior to the filing of the charge. N.J.S.A. 34:13A-5.4(c). Without specific dates set forth in the charge as to events alleged, we can not issue a complaint.

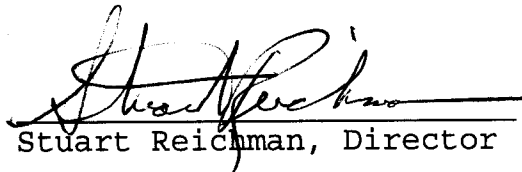
In addition, any issues raised by Yuhasz arising out of the document entitled "Terms for a Possible Affiliation" are untimely since that document came into existence on June 28, 1994 and was known to Yuhasz in October 1996 when she filed unfair practices Docket Nos. CI-96-24, CI-96-25 and CI-96-26. Thus, at least all claims concerning events prior to the December 6, 1994 certification of OPEIU as the representative are untimely and must be dismissed since all of these allegations occurred more than six months prior to the filing of the charge. Even assuming any of the allegations in the charges were timely filed, it is clear that the CSRA was no longer Yuhasz's majority representative at the times relevant to the instant unfair practice charge. See New Jersey State Judiciary. Only the majority representative bears a responsibility to negotiate

and act on behalf of unit employees and to represent their interests. N.J.S.A. 34:13A-5.3. Since CSRA was no longer the representative after December 6, 1994, it had no responsibility to represent Yuhasz and cannot be held to have breached any duty of fair representation. For these reasons, I find that the complaint issuance standard has not been met and I decline to issue a complaint.^{2/}

ORDER

The charge is dismissed.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Stuart Reichman, Director

DATED: February 18, 2000
Trenton, New Jersey