

P.E.R.C. NO. 91-110

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HOBOKEN TEACHERS ASSOCIATION,

Respondent,

-and-

Docket No. CI-91-45

STEVEN M. REPETTI,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission remands an unfair practice charge to the Director of Unfair Practices for issuance of a Complaint. The unfair practice charge filed by Steven M. Repetti alleged that the Hoboken Teachers Association violated the New Jersey Employer-Employee Relations Act by neglecting to perform its duties properly or supply proper representation in a timely and professional manner. The Commission concludes that questions of fact exist that must be resolved after the issuance of a Complaint.

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Appearances:

For the Charging Party,
Steven M. Repetti, pro se

DECISION AND ORDER

On February 14, 1991, Steven Repetti filed an unfair practice charge against the Hoboken Teachers Association. The charge alleges that the Association violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., by neglecting to perform its duties properly or supply proper representation in a timely and professional manner. The allegations concern the alleged failure of the Association's president to file paperwork or inform the Hoboken Board of Education about a dispute over Repetti's salary guide credit for military service, and the alleged delay of a NJEA representative in seeking relief which allegedly left Repetti with no remedy for retroactive compensation before the Commissioner of Education.

On February 27, 1991, the Director of Unfair Practices informed Repetti that it appeared that his dispute dates back to

1987 if not earlier and therefore did not meet the Commission's Complaint issuance standards. Those standards require that unfair practice charges be filed within six months of the occurrence of any unfair practice, unless the aggrieved person was prevented from filing the charge. N.J.S.A. 34:13A-5.4(c). The Director invited Repetti to amend his charge to allege facts within the six month limitation period and to specify the subsections of the Act he believed had been violated.

On March 7, 1991, Repetti amended his charge to allege violations of subsections 5.4(b)(3) and (5)^{1/} and to assert that the statute of limitations should run from the time he became aware he had been denied relief by the Commissioner.

On March 18, 1991, the Director declined to issue a Complaint because the allegations were untimely. He found that the limitations period began to run in 1987 when an NJEA representative told Repetti that he had no case against the Board. He further found that the fact that the NJEA ultimately represented Repetti before the Commissioner did not create a new limitations period.

On March 27, 1991, Repetti appealed the Director's determination not to issue a Complaint. Repetti claims that he did

^{1/} These subsections prohibit employee organizations, their representatives or agents from: "(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. (5) Violating any of the rules and regulations established by the commission."

not know that the Association had violated the Act until the Commissioner of Education ruled in August 1990 that he was entitled to salary guide credit for military service, but precluded from receiving retroactive compensation because of the delay in processing his claim against the Board.^{2/}

Repetti claims that he approached the Association in 1979, and it misled him into believing his claim was being processed. He further claims that in 1987, he contacted an NJEA representative who, after many months, told him that he was wasting his time and should drop his claim. After obtaining legal advice, Repetti allegedly informed the NJEA that his claim had merit. The Association then processed his claim before the Commissioner of Education.

At this stage of the proceedings, we are not prepared to say that Repetti had to file his charge in 1987 at the time the NJEA was representing him before the Commissioner. Neither are we prepared to say his cause of action did not accrue in 1991, or that if it accrued before that, that he was not misled by the Association and therefore prevented from filing a charge. See N.J.S.A. 34:13A-5.4(c). These are fact-sensitive questions that must be resolved post-Complaint.

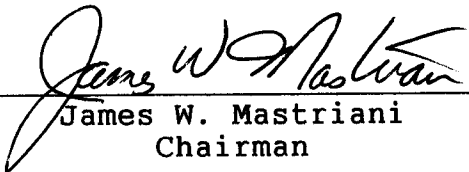
We remand the case to the Director of Unfair Practices to issue a Complaint.

^{2/} The Commissioner found that Repetti sat on his rights, did nothing to check on the status of his claim, and relied instead on vague assurances from his union representative that the matter was under consideration by the district.

ORDER

This matter is remanded to the Director of Unfair Practices to issue a Complaint.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Goetting, Johnson, Smith and Wenzler voted in favor of this decision. None opposed. Commissioner Bertolino abstained from consideration. Commissioner Regan abstained.

DATED: June 20, 1991
Trenton, New Jersey
ISSUED: June 21, 1991