

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

GLEN ROCK BOARD OF EDUCATION,

Respondent,

Docket No. CO-76-334-29

-and-

GLEN ROCK EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Chairman of the Commission, as the Commission's named designee, denies the Glen Rock Education Association's motion for summary judgment and the Glen Rock Board of Education's motion to dismiss, both of which were filed with reference to an Unfair Practice Proceeding. In its Charge the Association had alleged that the Board had refused to negotiate procedures relating to a reduction in force affecting the teaching staff and the effect on unit members' terms and conditions of employment of the reduction in force. The Association in its motion alleged that there were no material facts in dispute with respect to the Charge and that the Association was entitled to a judgment against the Board as a matter of law. The Board in its motion cited the decision of the Appellate Division of Superior Court in Union County Regional School Teacher's Assn. Inc. v. Union County Regional High School Board of Education, N.J. Super. (1976) as being dispositive of the relevant legal issues relating to the Association's charge.

The Chairman, in denying both motions, concludes that he is unable to state at this time that either party is entitled to its requested relief as a matter of law. The Chairman, after noting that the Commission and both Associations in Union County had petitioned the Supreme Court to grant certification to review the Appellate Division's decision, determines that it would be unwise to undertake a final determination of the instant matter on motion, where the governing principles of law relating to reduction in force issues may still be susceptible to further revision or modification in the near future.

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Appearances:

For the Respondent, Parisi, Evers & Greenfield, Esqs.
(Mr. Irving C. Evers, of Counsel)

For the Charging Party, Goldberg, Simon & Selikoff, Esqs.
(Mr. Gerald M. Goldberg, of Counsel)

ORDER ON MOTIONS

On June 10, 1976, the Glen Rock Education Association (the "Association") filed with the Public Employment Relations Commission (the "Commission") an Unfair Practice Charge alleging that the Glen Rock Board of Education (the "Board") was engaging in conduct violative of subsections (a)(1) and (a)(5) of the unfair practice provisions of the New Jersey Employer-Employee Relations Act (the "Act"), as amended (N.J.S.A.34:13A-5.4(a)(1) and (5)).

The Charge alleges that the Association is the exclusive representative of the professional, non-supervisory employees employed by the Board and is recognized as such pursuant to a collectively negotiated agreement between the parties covering the period from July 1, 1975 through and including June 30, 1977;

that the Board determined on April 26, 1976 to reduce its teaching staff; that the Board had notified several teachers that their contracts would not be renewed for the following year; that the Association had demanded to negotiate and the Board had refused to negotiate procedures relating to the reduction in force (RIF) and the effects on unit members' terms and conditions of employment of the RIF^{1/}; that the question of a RIF was not contained in the parties' agreement nor previously negotiated; and that the Board by its refusal and unilateral implementation of the RIF was in violation of the above-cited subsections of the Act.

On September 13, 1976, the attorney for the Association filed with the Commission a Motion for Summary Judgment supported by a brief alleging that there were no material facts in dispute with respect to the Charge and that the Association was entitled to judgment against the Board as a matter of law. Thereafter, on September 17, 1976, the attorney for the Board filed a Brief in Opposition to the Association's Motion. On December 15, 1976, the Board through its attorney filed a motion to dismiss the Unfair Practice Charge, citing the decision of the Appellate Division of Superior Court in Union County Regional School Teacher's Assn Inc., v. Union County Regional High School Board of Education, ___ N.J. Super. ___, decided December 10, 1976. That decision

^{1/} Among the alleged effects of the Board's decision, listed in the Association's Charge, which the Association seeks to mitigate through negotiations were recall rights for those terminated and the effects on terms and conditions of employment of the remaining teachers.

reversed an Order Granting Interim Relief issued by the undersigned as the Commission's designee which directed the two boards of education involved therein to negotiate the procedures relating to a RIF and the impact on terms and conditions of employment of the RIF with the Associations representing the professional, non-supervisory employees of the respective boards, In re Union County Regional High School Board of Education, P.E.R.C. No. 76-43, 2 NJPER 221 (1976).

In the interim, the Director of Unfair Practice Proceedings, as the Commission's named designee, on September 17, 1976, issued, and caused to be served upon the parties, a Complaint, based upon the Charge, in accordance with N.J.A.C. 19:14-2.1 of the Commission's rules.^{2/} Thereafter, on September 22, 1976 the Board filed an Answer to the Complaint, which was supplemented on February 15, 1977.

Pursuant to N.J.S.A. 34:13A-6(f), the Commission has delegated to the undersigned the authority to rule on these motions.

Even though it appears from the parties' pleadings that there are probably no disputed material factual issues and that the Board's motion to dismiss allows us to treat the factual allegations in the Complaint, for purposes of its motion, as being true, the undersigned is unable to state at this time that either party is entitled to its requested relief as a matter of law.

As noted recently by the undersigned in denying a motion

^{2/} The Complaint in the instant case was not set down for hearing and was held in abeyance as noted in the cover letter accompanying the Complaint, because of the pendency of the appellate proceedings in Union County, supra. Similar procedures have been followed with respect to additional unfair practice charges pending before the Commission which allege violations of the Act based upon conduct of public employers stemming from reductions in force.

to dissolve interim restraints previously issued pursuant to an unfair practice charge involving a RIF, In re New Providence Board of Education, P.E.R.C. No. 77-39, ___ NJPER ___ (February 11, 1977), while the Appellate Division's decision in Union County, supra., undermined his forecast that the Association therein was likely to prevail on the merits of its Charge, he decided not to revise his previously issued order as both the Associations and the Commission in Union County, supra., had petitioned the Supreme Court to grant certification to review the Appellate Division's decision (Docket No. 13,298).

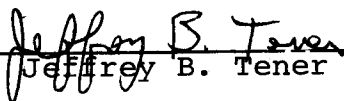
Similarly, in my view it would be unwise to undertake a final determination of the instant matter on motion, where the governing principles of law may still be susceptible to further revision or modification in the near future.

However, since it appears that there is no dispute as to the facts in this case, the instant determination should in no way prejudice any future attempts by either party to secure an expeditious resolution of the case on motion when the appellate review process in Union County, supra., is complete.

ORDER

The Motion for Summary Judgment filed by the Glen Rock Education Association and the Motion to Dismiss filed by the Glen Rock Board of Education are hereby denied.^{3/}

BY ORDER OF THE COMMISSION



 Jeffrey B. Tener

DATED: Trenton, New Jersey
 February 18, 1977

^{3/} While not contained in its motion papers, a letter from the Association, dated December 6, 1976 requests oral argument on the motion. That request is hereby denied.