

P.E.R.C. NO. 91-31

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY,

Respondent,

-and-

Docket No. CI-90-88

ROBERT P. DALY,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission sustains the Director of Unfair Practices' refusal to issue a Complaint based on an unfair practice charge filed by Robert P. Daly against the State of New Jersey. The charge alleged that the Departments of Labor and Personnel failed to respond to an appeal contesting a promotional announcement. The Commission agrees with the Director that the Commission has no jurisdiction to hear appeals of Department of Personnel promotional announcements.

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Appearances:

For the Charging Party,
Robert P. Daly, pro se

DECISION AND ORDER

On May 16, 1990, Robert P. Daly filed an unfair practice charge against the State of New Jersey. The charge alleges that over 35 qualified candidates were discriminatorily denied the opportunity to apply for the title referee-labor. It also alleges that the Departments of Labor and Personnel failed to respond to an appeal contesting the promotional announcement.

On May 21, 1990, the Director of Unfair Practices wrote to Daly indicating that he was inclined to dismiss the unfair practice charge because the allegations set forth in the charge did not meet the Commission's Complaint issuance standards. N.J.A.C. 19:14-2.3. He provided Daly with an opportunity to respond.

On May 30, 1990, Daly asserted that his charge alleges a breach of contract within our jurisdiction and an unfair practice by the Departments of Labor and Personnel for failing to act on his appeal.

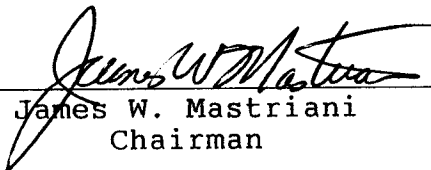
On August 8, 1990, the Director refused to issue a Complaint. D.U.P. No. 91-3, 16 NJPER 452 (¶21197 1990). He found that we do not have jurisdiction to hear appeals concerning career service appointments. He noted that regular appointments to titles allocated to the competitive division of the career service are subject to the provisions of the Civil Service Reform Act of 1986, N.J.S.A. 11A:1-1 et seq. He further noted that, in accordance with the regulations adopted pursuant to that act, any appeal regarding appointments must be brought to the Department of Personnel. Daly has filed such an appeal.

We sustain the Director's refusal to issue a Complaint. Daly's allegations, even if true, would not constitute unfair practices. We have no jurisdiction to hear appeals of Department of Personnel promotional announcements.^{1/}

ORDER

The refusal to issue a Complaint is sustained.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Bertolino, Reid, Smith, Wenzler, Johnson and Ruggiero voted in favor of this decision. None opposed.

DATED: Trenton, New Jersey
September 27, 1990
ISSUED: September 28, 1990

^{1/} In his appeal, Daly assumes that the listing of Frank Mason, Director of the Office of Employee Relations, under "Appearances" in the Director's decision indicates that Mason filed a pleading or response to the charge. Mason never filed any document or made any other appearance in this matter. He was undoubtedly listed in the "Appearances" because it is the Director's practice to serve all parties with copies of his decisions, regardless of whether they have made formal appearances.