

STATE OF NEW JERSEY
BEFORE THE MERIT SYSTEM BOARD
AND
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of	:	
	:	
MATILDA ENDRESS,	:	JOINT ORDER
	:	ON CONSOLIDATION AND
Appellant,	:	PREDOMINANT INTEREST
	:	
-and-	:	OAL Docket No. CSV 8330-00
	:	
BURLINGTON COUNTY,	:	
	:	
Respondent.	:	
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BURLINGTON COUNTY,	:	
	:	
Respondent,	:	
	:	
-and-	:	PERC Docket No. CO-H-2001-98
	:	
COMMUNICATIONS WORKERS OF	:	
AMERICA, LOCAL 1034.	:	
	:	
Charging Party.	:	

SYNOPSIS

The Chair of the Public Employment Relations Commission and the Merit System Board entered a joint order consolidating an unfair practice charge filed with the Commission and a disciplinary appeal filed with the Merit System Board. The consolidated case will be heard by an Administrative Law Judge. The Judge's initial decision and the record will be forwarded to the Commission first to determine whether Endress's suspension was motivated by hostility towards activity protected by the New Jersey Employer-Employee Relations Act. The case will then be transferred to the Merit System Board to determine whether the suspension was for legitimate business reasons and whether it was otherwise warranted under Merit System law. If necessary, the case will then be returned to the Commission for the issuance of any specialized relief.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

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Appearances:

For the Charging Party/Appellant, Steve Jarema, CWA Staff Representative

For the Respondent, Evan H.C. Crook, Burlington County Solicitor (Daniel Hornickel, Assistant County Solicitor)

DECISION

Matilda Endress was suspended for six days by Burlington County on charges of insubordination, conduct unbecoming a State employee, neglect of duty, and other sufficient cause. On September 28, 2000, she appealed to the Merit System Board.

On October 19, 2000, Communications Workers of America, Local 1034 filed an unfair practice charge alleging that Endress was suspended and subjected to spurious charges as part of an

effort to destroy the bargaining unit. On January 10, 2001, the charge was amended to add additional allegations. On February 20, 2001, a Complaint and Notice of Hearing based on the charge and amendment issued.

The County sought an order consolidating the matters and declaring that the predominant interest lies with the Board. Petitioner did not oppose the motion.

On February 8, 2002, Administrative Law Judge Kathryn A. Clark issued a decision and order consolidating the cases before the ALJ and determining that the Board should have the predominant interest. On February 27, the ALJ issued another decision and order more fully explaining the basis for her decision.

Having independently evaluated the record and considered the ALJ's Order, the Board, at its meeting on *March 27*, 2002 and the Chair of the Public Employment Relations Commission, acting pursuant to authority delegated to her by the full Commission, on March 13, 2002 determined that the two cases should be consolidated and decided consistent with our approach in similar cases. See, e.g., State of New Jersey (Dept. of Treasury), P.E.R.C. No. 2002-25, 28 NJPER 45 (133012 2001).

JOINT ORDER

The Merit System Board appeal and the Public Employment Relations Commission Complaint are consolidated for hearing before the Administrative Law Judge. The ALJ will first offer recommended findings of fact and conclusions of law to both the Public Employment Relations Commission and the Merit System Board, disposing of all issues in controversy through a single initial

decision under N.J.A.C. 1:1-18.3 and consistent with N.J.A.C. 1:1-17.8(a); and


Upon transmittal of the initial decision to both agencies, the underlying record will be forwarded to the Commission to determine whether Endress engaged in activity protected under the New Jersey Employer-Employee Relations Act and whether that activity, if protected, was a substantial or motivating factor in the suspension; and

The Commission's decision and the complete record will then be sent to the Merit System Board which will then determine whether the disciplinary actions were for legitimate business reasons and were otherwise warranted under Civil Service laws; and

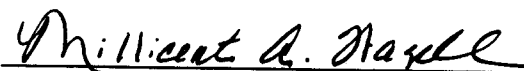
If appropriate, the matter will be returned to the Commission for its consideration of whether specialized relief is warranted under its Act.

DECISION RENDERED BY THE
MERIT SYSTEM BOARD ON
MARCH 27, 2002

DECISION RENDERED BY THE CHAIR
OF THE PUBLIC EMPLOYMENT
RELATIONS COMMISSION ON
March 13, 2002



Ida L. Castro
Commissioner
Department of Personnel



Millicent A. Wasell
Chair
Public Employment Relations
Commission