

D.U.P. NO. 98-19

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE DIRECTOR OF UNFAIR PRACTICES

In the Matter of

STATE OF NEW JERSEY
(DEPARTMENT OF TREASURY),

Respondent,

-and-

Docket No. CO-97-410

C.W.A., LOCAL 1032,

Charging Party.

SYNOPSIS

The Director of Unfair Practices dismisses an unfair practice charge filed by CWA Local 1032. A charge over an employer's refusal to negotiate in good faith over terms and conditions of employment can only be filed by the exclusive majority representative, the CWA International. CWA Local 1032 lacks standing to file this charge.

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Appearances:

For the Respondent,
Peter Verniero, Attorney General
(Mary Cupo-Cruz, Sr. Deputy Attorney General)

For the Charging Party,
Dudley Burdge, CWA Local 1032 Staff Rep.

REFUSAL TO ISSUE COMPLAINT

On June 5, 1997, CWA Local 1032 filed an unfair practice charge alleging that the State of New Jersey violated subsection 5.4(a)(5)^{1/} of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq.

CWA Local 1032 alleges that on April 2, 1997, management of the Office of Telecommunications and Information Systems (OTIS) of

^{1/} This subsection prohibits public employers, their representatives or agents from: "(5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative."

the Department of Treasury ended a jitney service, in place since 1992, which transported CWA-represented employees between their work location at the Wolverton building in Trenton and an outlying employee parking lot. CWA Local 1032 alleges that the State terminated this benefit without notification or negotiations. CWA Local 1032 filed a grievance requesting negotiations on the issue, but the State denied the grievance stating that parking is not negotiable nor is it a term and condition of employment.

The State contends that CWA Local 1032 is not the exclusive majority representative of the employees involved in this dispute; rather the exclusive representative is CWA International. The State asserts that CWA Local 1032 does not have standing to file a charge alleging a refusal to negotiate because it is not the exclusive majority representative. See N.J.S.A. 34:13A-5.4(a)(5).


The right to initiate a charge over an employer's refusal to negotiate in good faith rests only with the exclusive representative. N.J. Turnpike, P.E.R.C. No. 81-64, 6 NJPER 560 (¶11284 1980), aff'd App. Div. Dkt. No. A-1263-80T2; Essex Cty. Coll., P.E.R.C. No. 87-81, 13 NJPER 75 (¶18034 1986). In grievance matters involving the State and CWA negotiations units, the CWA International, not any CWA local, is the designated exclusive representative pursuant to the Commission's certifications and the parties' collective negotiations agreements. Accordingly, Local 1032 lacks standing to file a charge alleging a refusal to negotiate in good faith in violation of subsection 5.4(a)(5) of the Act. Only

CWA International may bring such a charge. See N.J.S.A.
34:13A-5.4(a)(5); State of New Jersey (DEPE), D.U.P. No. 93-43, 19
NJPER 389 (¶24171 1993); State of New Jersey (DHS), D.U.P. No.
95-21, 21 NJPER 52 (¶26036 1994).

Based upon the foregoing, I will not issue a complaint on
this charge.

This unfair practice charge is dismissed.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Edmund G. Gerber, Director

DATED: September 16, 1997
Trenton, New Jersey