

D.U.P. NO. 88-5

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

In the Matter of

NEW JERSEY TRANSIT BUS OPERATIONS, INC. AND
UNITED TRANSPORTATION UNION, LOCAL NO. 33,

Respondents,

-and-

Docket Nos. CI-88-9 and CI-88-10

DENNIS HENDRICKS,

Charging Party.

SYNOPSIS

This matter came before the Public Employment Relations Commission by way of an order transferring it from the Superior Court of New Jersey, Law Division. The complaint filed in Superior Court failed to allege any facts which occurred within six (6) months of its filing. Pursuant to our request, the charging party completed an unfair practice charge form but again failed to state any facts which occurred within six (6) months. The complaint was dismissed as untimely pursuant to N.J.S.A. 34:13A-5.4(c)..

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Appearances:

For the Respondent, New Jersey Transit Bus Operations, Inc.
Jeffrey Burstein, Deputy Attorney General

For the Respondent, United Transportation Union, Local #33
Cecchi & Politan, Esqs.
(Antonio Inacio, of counsel)

For the Charging Party,
Philip M. Saginario, Esq.

REFUSAL TO ISSUE A COMPLAINT

This matter first came before the Public Employment Relations Commission ("Commission") by way of an order transferring it from the Superior Court of New Jersey, Law Division.^{1/}

On September 17, 1987, we wrote to the Charging party, Dennis Hendricks, advising him that in order to conform with our rules, he should complete an unfair practice charge form. That form

^{1/} Superior Court of New Jersey, Law Division, Passaic County, Docket No. L-060684-86.

was completed by the Charging party and was received in our office on October 1, 1987. The charges allege that N.J.S.A. 34:13A-1 et seq. (the "Act") was violated by both the New Jersey Transit Bus Operations ("New Jersey Transit") and the United Transportation Union, Local No. 33 ("UTU") when, in June 1983, the Charging party was terminated from the employ of New Jersey Transit. The Complainant alleges that agents of the UTU apprised the Charging Party that they could take no action on his behalf in contesting his termination until he was acquitted of certain charges involving motor vehicle violations.

In January 1985, Hendricks was acquitted of all motor vehicle violations and he thereafter approached the UTU to file a grievance on his behalf. It declined to do so. In March 1985, Hendricks sent letters to the UTU asking it to take action on his behalf.

On October 6, 1987, we wrote to the Charging Party stating that it appears that his charge fails to state that the unfair practice alleged occurred within the six-month limitation period required under N.J.S.A. 34:13A-5.4(c)^{2/} and asked if there were

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The statute provides:

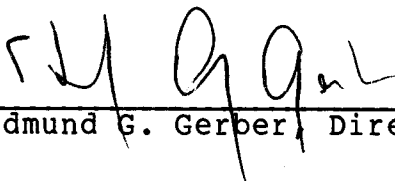
...no complaint shall issue based upon any unfair practice occurring more than 6 months prior to the filing of the charge unless the person aggrieved thereby was prevented from filing such charge in which event the 6 months period shall be computed from the day he was no longer so prevented.

any facts that the charging party wished to bring to our attention which would show why he was prevented from bringing this action within the time limitations of the Act. See Kaczmarek v. New Jersey Turnpike Authority, 77 N.J. 329 (1978) and No. Warren Bd. of Ed., D.U.P. No. 78-7, 4 NJPER 55 (¶4026 1977).

On October 15, 1987, the Charging Party submitted an amendment to his original charge but failed to show why he was prevented from filing the charge in a timely manner.

Accordingly, in the absence of an allegation of an unfair practice occurring within six months of the date of filing of either the charge with the Commission or the complaint in Superior Court, we hereby decline to issue a complaint.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES



Edmund G. Gerber, Director

DATED: October 21, 1987
Trenton, New Jersey