

D.U.P. NO. 2000-3

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

In the Matter of

STATE OF NEW JERSEY,

Respondent,

-and-

Docket No. CO-98-396

C.W.A. LOCAL 1040,

Charging Party.

SYNOPSIS

The Director of Unfair Practices refuses to issue a complaint on an unfair practice charge filed by the Communications Workers of America, Local 1040 ("CWA"). CWA alleged that Judith Lester, a shop steward at the Bordentown Juvenile Medium Security Facility, was harassed and followed around the facility by another CWA member, and that the Administration told Lester that she was not permitted in the facility's basement. The Director found that the allegations against another unit member involved internal union matters and did not implicate a violation of rights protected by the Act. Moreover, the allegation that Lester was told that she was not permitted in the basement of the facility raised no facts connecting that restriction to any protected activity. The charge was dismissed.

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Appearances:

For the Respondent,
Governor's Office of Employee Relations
(David Collins, Deputy Director)

For the Charging Party,
Donald L. Klein, Executive Vice President

REFUSAL TO ISSUE COMPLAINT

On May 4, 1998, Local 1040, Communications Workers of America (CWA) filed an unfair practice charge alleging that the State of New Jersey, Juvenile Justice Commission violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.4a(1), (2), (3).^{1/} CWA alleges that Shop Steward Judith Lester, a

^{1/} These provisions prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act. (2) Dominating or interfering with the formation, existence or administration of any employee organization. (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this act."

Teacher I at the Bordentown Juvenile Medium Security Facility, was targeted, harassed and intimidated because of her legitimate, protected activity. The State denies any violation.

The Commission has authority to issue a complaint where it appears that the charging party's allegations, if true, may constitute an unfair practice within the meaning of the Act. N.J.S.A. 34:13A-5.4c; N.J.A.C. 19:14-2.1. The Commission has delegated that authority to me. Where the Complaint issuance standard has not been met, I may decline to issue a Complaint. N.J.A.C. 19:14-2.3. In correspondence dated July 14, 1999, I advised the parties that I was not inclined to issue a complaint in this matter and set forth the basis upon which I arrived at that conclusion. I provided the parties with an opportunity to respond. Neither party filed a response. Based upon the following, I find that the Complaint issuance standard has not been met.

CWA alleges that employee Walter Banks, also a Teacher I and a member of the collective negotiations unit, followed Lester around the facility, complained to another union official about her role as a shop steward, cancelled his classes to follow Lester without question from the administration, circulated a petition to become a steward during working hours, and represented himself as a shop steward to Educational Programs Director Jim Lotys. CWA further asserts that when Lester went to retrieve a policy memorandum from the facility's basement, the facility administration told her she was not permitted in the basement.

The facts of the charge relating to the alleged actions of Banks essentially concern allegations against another unit member. As such, these allegations involve internal union matters into which the Commission is reluctant to intercede. Union City Ed. Assn., D.U.P. No. 98-24, 24 NJPER 42 (¶29026 1997); City of Jersey City, P.E.R.C. No. 83-2, 8 NJPER 563 (¶1360 1982). The charge essentially concerns a dispute over who should serve as CWA's shop steward. Employee organizations are private organizations and litigation over internal disputes such as the right to hold office should be litigated in the courts and do not constitute unfair practices. Jersey City.

The Commission will exercise jurisdiction over internal union matters only where rights protected by N.J.S.A. 34:13A-5.3 are implicated. See West New York Supervisors Assn., P.E.R.C. No. 89-60, 15 NJPER 21 (¶20007 1988). This charge raises no allegation that Banks acted as a representative of the employer, or that the employer even knew of or encouraged his activities. Here, even if the employer was aware of Banks' actions, the issue remains an internal union matter. Therefore, I find that these allegations do not meet the complaint issuance standard and I dismiss them.

Moreover, the allegation that Lester was told that she was not permitted in the basement of the facility raises no facts connecting that restriction to any protected activity. Moreover, no adverse personnel action was taken -- Lester's terms and conditions of employment were not adversely affected by the employer's alleged


restriction. Therefore, I dismiss that portion of the charge as well.

Based upon the foregoing, I find that the Commission's complaint issuance standard has not been met and I decline to issue a complaint on the allegations of this charge.^{2/}

ORDER

The charge is dismissed.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Stuart Reichman, Director

DATED: July 30, 1999
Trenton, New Jersey

^{2/} N.J.A.C. 19:14-2.3.