

D.U.P. NO. 88-19

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

In the Matter of

CITY OF JERSEY CITY,

Respondent,

-and-

LOCAL 246, JERSEY CITY PUBLIC EMPLOYEES,

Docket No. CI-88-38

Respondent,

-and-

CHARNETTE CHAUDRY,

Charging Party.

SYNOPSIS

The Director of Unfair Practices dismisses an unfair practice charge filed by Charnette Chaudry against her employer, Jersey City, and her majority representative, Local 246, Jersey City Public Employees ("Local"). Chaudry alleged that the City and the Local unlawfully failed to notify her of a meeting wherein her grievance concerning out-of-title work was to be discussed, in violation of N.J.S.A. 34:13A-5.4 (a)(1) and 5.4(b)(3), respectively.

The Director found that the allegations as set forth in the Charge are beyond the Commission's six-month statute of limitation. Accordingly, the Director declined to issue a complaint.

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Appearances:

For the Respondent Jersey City

Louis Ippolito, Director of Labor Relations

For the Respondent Local 246

Philip Feintuch, Esq.

For the Charging Party

Charnett Chaudry, pro se

REFUSAL TO ISSUE COMPLAINT

On January 11, 1988, Charnett Chaudry filed an unfair practice charge alleging that the City of Jersey City ("City") and Local 246, Jersey City Public Employees ("Local 246") violated

subsections 5.4(a)(1)^{1/} and 5.4(b)(3) respectively ^{2/} of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act") Specifically, Chaudry charges that the City and Local 245 denied her the opportunity to appear at a grievance hearing held on May 26, 1987.

N.J.S.A. 34:13A-5.4(c) provides that the Commission shall have the power to prevent anyone from engaging in any unfair practice and that it has the authority to issue a complaint stating the unfair practice charged. The Commission has delegated its authority to issue complaints to me and has established a standard upon which an unfair practice complaint may be issued. The standard provides that a complaint shall issue if it appears that the allegations of the charging party, if true, may constitute an unfair practice within the meaning of the Act.^{3/} The Commission's rules also provide that I may decline to issue a complaint.^{4/}

N.J.S.A. 34:13A-5.4(c) provides:

1/ This subsection prohibits 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/ This subsection prohibits employee organizations, their representatives or agents from:...(3) Refusing to negotiate in good faith with a public employer, if they are the majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit.

3/ N.J.A.C. 19:14-2.1.

4/ N.J.A.C. 19:14-2.3

...provided that 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.

Thus, in order to file a timely charge, a charging party must file within six months of the alleged violation. See No. Warren Bd. of Ed., D.U.P. No. 78-7, 4 NJPER 955 (¶4026 1977). See also N.J. Turnpike Employees' Union, Local 194, IFPTE, AFL-CIO, P.E.R.C. No. 80-38, 5 NJPER 412 (¶10215 1979).

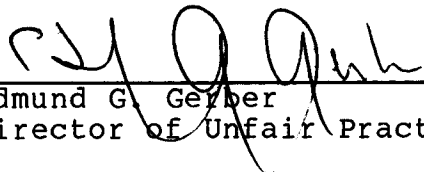
Here, Chaudry alleges that she worked out of title from October 1986 to March 1987. At her request, Local 246 submitted a grievance on March 9, 1987, to the Directors of the Police and Labor Relations departments. On March 19, 1987, Police Captain Edwin Baylan responded, denying that Chaudry had worked out of title. At Chaudry's written request, Local 246 requested a meeting with City representatives to pursue the grievance. On May 26, 1987, Local 246 met with City representatives about Chaudry's grievance. The grievance was denied. Chaudry was not present at the May 26, 1987 meeting but became aware of the meeting on the following day, May 27, and was notified of this meeting by letter postmarked June 12, 1987.

In order to have been timely, these charges at best had to be filed no later than six months after Chaudry received the letter postmarked June 12, 1987; the charge was not filed until January 11, 1988.

This charge was not filed within the six-month statute of limitations and, accordingly, must be dismissed.

Accordingly, we have determined that the Commission's complaint issuance standard has not been met in this matter and decline to issue a complaint.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES



Edmund G. Geiber
Director of Unfair Practices

DATED: June 15, 1988
Trenton, New Jersey