

H. E. No. 82-15

STATE OF NEW JERSEY
BEFORE A HEARING EXAMINER OF THE
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HILLSIDE TOWNSHIP BOARD
OF EDUCATION,

Respondent,

-and-

Docket No. CO-81-252-11

HILLSIDE EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

In an unfair practice proceeding a Hearing Examiner granted a Motion to Dismiss when the Charging Party failed to appear. There was adequate proof of service and the Hearing Examiner contacted the representative of the Charging Party by phone but the Charging Party stated he was not prepared to proceed.

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Appearances:

For the Respondent, Goldhor, Meskin & Ziegler, Esqs.
(Sanford A. Meskin, Esq.)

For the Charging Party, Ann M. Whitford, UniServ Rep.
New Jersey Education Association

DECISION ON MOTION

On March 2, 1981, the Hillside Education Association (Association) filed an Unfair Practice Charge with the Public Employment Relations Commission alleging that the Hillside Township Board of Education (Board) engaged in certain conduct which is violative of N.J.S.A. 34:13A-5.4(a)(5). It appearing that the allegations of the charge, if true, may constitute an unfair practice within the meaning of the Act, a Complaint and Notice of Hearing was issued on July 23, 1981. The notice set a conference date of September 21, 1981 and a hearing date of October 7, 1981.

A copy of the Complaint and Notice of Hearing was sent to the parties by certified mail. The Association's copy was sent to Ann Whitford of the New Jersey Education Association. The re-

ceipt was signed by A. Martin.

On August 28, 1981, I wrote a letter to Whitford and Sanford Meskin, the attorney for the Board. I notified them that the prehearing conference was cancelled but "The hearing date, October 7, remains unchanged."

On the morning of the scheduled date of the hearing, the Charging Party failed to appear. I phoned the N.J.E.A. office of Ann Whitford to inquire as to what happened. Whitford was not there. I spoke to Ron Harvey. Harvey informed me that Whitford was on sick leave and he was handling her cases but he was not aware of this case. I asked Harvey if he could proceed with this matter but Harvey said he could not. I warned Harvey that the attorney for the Board might make a motion to dismiss but Harvey simply stated he didn't know what to do. I stated that if the opposing counsel agreed to an adjournment I could schedule a new hearing date in December but warned Harvey that counsel might not agree and warned Harvey a second time that a motion to dismiss might be made. Again Harvey gave no indication that he was prepared to take any action at all. After the phone call I told Meskin that the Association was not prepared to proceed. Meskin asked to go on the record, we did so and Meskin made the instant Motion to Dismiss. Meskin pointed out that when he filed his answer in this matter and served a copy on Whitford at her NJEA regional office, he used the New Jersey Lawyer's Service and pointed out that the acknowledgment of service was signed by Ann Martin.

I am satisfied that the Association had ample notice of the hearing. The reluctance of the Association to either proceed or otherwise appear before me leaves me no choice but to grant the Motion to Dismiss.

Accordingly the Complaint in this matter is hereby dismissed.

A handwritten signature in cursive script, appearing to read "Edmund G. Gerber", is written over a horizontal line.

Edmund G. Gerber
Hearing Examiner

DATED: October 14, 1981
Trenton, New Jersey