

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

In the Matter of

MORRIS TOWNSHIP ROAD DEPARTMENT,

Respondent,

-and-

DOCKET NO. CI-81-41

ROBERT BOLCAR, JR.,

Charging Party.

SYNOPSIS

The Director of Unfair Practices declines to issue a complaint with respect to an Unfair Practice Charge filed by an individual who claims that he was being discriminated against due to his age and seniority. The Charging Party has not alleged that the claimed discrimination is due to his exercise of rights protected by the Employer-Employee Relations Act.

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

In the Matter of

MORRIS TOWNSHIP ROAD DEPARTMENT,

Respondent,

-and-

DOCKET NO. CI-81-41

ROBERT BOLCAR, JR.

Charging Party.

REFUSAL TO ISSUE COMPLAINT

An Unfair Practice Charge was filed with the Public Employment Relations Commission (the "Commission") on December 15, 1980, by Robert Bolcar, Jr. (the "Charging Party") against the Morris Township Road Department (the "Township") alleging that the Township was engaging in unfair practices within the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., (the "Act"), specifically N.J.S.A. 34:13A-5.4(a)(3) 1/ by refusing to assign the Charging Party light duties and by subsequently terminating his employment.

N.J.S.A. 34:13A-5.4(c) sets forth in pertinent part 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

1/ N.J.S.A. 34:13A-5.4(a) prohibits public employers, their representatives and agents from: "(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."

complaint stating the unfair practice charge. <sup>2/</sup> The Commission has delegated its authority to issue complaints to the undersigned and has established a standard upon which an unfair practice complaint may be issued. This 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. <sup>3/</sup> The Commission's rules provide that the undersigned may decline to issue a complaint. <sup>4/</sup>

For the reasons stated below the undersigned has determined that the Commission's complaint issuance standards have not been met.

Charging Party states that the Township is "discriminating against me on the grounds of my tenure (seniority and age)." The discrimination prohibited by N.J.S.A. 34:13A-5.4(a)(3) generally relates to activities in which an employee may engage on behalf of an employee union. The Charging Party does not assert that he was discriminated against in retaliation for his activities on behalf of an employee organization or for the exercise of protected activity. Accordingly, the discrimination alleged in this charge is not a violation of §(a)(3).

<sup>2/</sup> N.J.S.A. 34:13A-5.4(c) provides: "The Commission shall have exclusive power as hereinafter provided to prevent anyone from engaging in any unfair practice...whenever it is charged that anyone has engaged or is engaging in any such unfair practice, the Commission or any designated agent thereof shall have authority to issue and cause to be served upon such party a complaint stating the specific unfair practice and including a notice of hearing containing the date and place of hearing before the Commission or any designated agent thereof..."

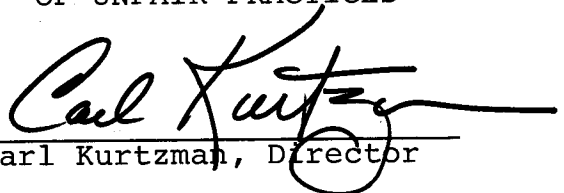
<sup>3/</sup> N.J.A.C. 19:14-2.1

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

Subsequent to the filing of the instant unfair practice charge, by letter dated February 23, 1981, the charging party was informed that the charge could not be processed further unless it was amended to include factual allegations which related to the exercise of protected rights. The undersigned has not received a reply to the February 12, 1981 letter nor has the charge been amended as requested.

Accordingly, for the above reasons, the undersigned hereby dismisses the instant charge.

BY ORDER OF THE DIRECTOR  
OF UNFAIR PRACTICES

  
Carl Kurtzman, Director

DATED: May 18, 1981  
Trenton, New Jersey