

D.U.P. NO. 88-17

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

In the Matter of

N.J. CIVIL SERVICE ASSOCIATION
AND LPNU,

Respondent,

-and-

Docket No. CI-88-81

CORINNE MCCLERNAN,

Charging Party.

SYNOPSIS

The Director of Unfair Practices declines to issue a complaint where the charge was not filed within six months prior to the alleged unfair practice.

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Appearances:

For the Respondent
David Polniak, President, NJCSA
Edwena Devan, President, LPNU

For the Charging Party
Corinne McCiernan, pro se

REFUSAL TO ISSUE COMPLAINT

On April 29, 1988, Corinne McClernan filed an unfair practice charge alleging that the N.J. Civil Service Association and the Licensed Practical Nurse Union violated §5.4 of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.4 et seq. by failing to represent her in seeking holiday pay which she claims she was denied during the time she was represented.

N.J.S.A. 34:13A-5.4(c) precludes the Commission from issuing a Complaint where an unfair practice charge has not been filed within six (6) months of the occurrence of any unfair practice, unless the aggrieved person was prevented from filing the


charge. See In re North Warren Bd. of Ed., D.U.P. No. 78-7, 4 NJPER 55 (¶4026 1977). McClernan's charge fails to allege the occurrence of unfair practices within the six (6) month limitation requirement and on its face is out of time.

She claims that she should have received holiday pay during the time she was represented by Council #10 but she never received this pay. McClernan was then transferred from a unit represented by Council #10 to one represented by the LPNU. McClernan first became aware of these benefits in August 1987, sometime after her transfer.

The six month statutory time limit has to run from August 1987 which means to be viable, her charge had to have been filed before the end of March 1988. The charge was not filed until April 29, 1988.

Based on the foregoing, we do not believe that the Commission's complaint issuance standard has been met. Accordingly, the charge is dismissed.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Edmund G. Gerber, Director

DATED: June 3, 1988
Trenton, New Jersey