

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

In the Matter of

NEW JERSEY TURNPIKE AUTHORITY,

Respondent,

-and-

DOCKET NO. CI-86-43

THOMAS SEEGERs,

Charging Party.

NEW JERSEY TURNPIKE EMPLOYEES
UNION, LOCAL 194,

Respondent,

-and-

DOCKET NO. CI-86-44

THOMAS SEEGERs,

Charging Party.

Synopsis

The Director of Unfair Practices declines to issue a complaint with respect to allegations of violations under subsections (a)(1), (3) and (7), and (b)(1) and (5) of the Act, raised by the Charging Party against the New Jersey Turnpike Authority and New Jersey Turnpike Employees Union, Local 194. The Director finds that although the Charging Party alleged violations under subsections (a)(1) and (3), and (b)(1), it failed to indicate what protected rights the Turnpike Authority and Local 194 interfered with by virtue of their actions. Similarly, although (a)(7) and (b)(5) violations were alleged, the Charging Party failed to indicate which rules and regulations established by the Commission had been violated.

D.U.P. NO. 86-9

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Appearances:

For the Respondent Turnpike Authority
William J. Flanagan, Ex. Dir.

For the Respondent Union Local 194
Dino Loretangeli, President

For the Charging Party
Mark T. Janeczko, Esq.

REFUSAL TO ISSUE COMPLAINT

On January 21, 1986, two Unfair Practice Charges were filed with the Public Employment Relations Commission ("Commission") on

behalf of Thomas Seegers, (1) alleging that the New Jersey Turnpike Authority was engaging in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically subsections 5.4(a)(1), (3) and (7);^{1/} and (2) alleging that the New Jersey Turnpike Employees Union, Local 194, was engaging in unfair practices within the meaning of the same Act, specifically subsections 5.4(b)(1) and (5).^{2/}

On March 5, 1986, I advised the Charging Party of the deficiencies in the charges, and requested the submission of additional facts alleging unfair practices which would fall within the Acts cognizable limitations. The Charging Party has not provided any additional information in support of its allegations.

In the first of the two charges, the Charging Party alleges that the Turnpike Authority failed to address Seegers' grievances as set forth in his letter of July 24, 1985. It is claimed that the Authority's inaction is contrary to Article XVI of the negotiated

^{1/} These subsections 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; (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; (7) Violating any of the rules and regulations established by the commission."

^{2/} These subsections prohibit employee organizations, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act; (5) Violating any of the rules and regulations established by the commission."

agreement between the employer and the employee and therefore is a violation of subsections (a)(1), (3) and (7) of the Act. In the second charge, it is alleged that the employee organization refused to represent Seegers in the parties' established grievance procedure, concerning the employees' apprenticeship program. It is claimed that this is a violation of subsection (b)(1) and (5) of the Act.

For the reasons stated below, I have determined that the Commission's complaint issuance standards have not been met.^{3/}

The facts in this case are as follows: By letter of July 24, 1985, Seegers presented a list of complaints characterized as grievances to the members of the Apprenticeship Committee of the New Jersey Turnpike Authority wherein Seegers alleges that he was misled at his original interview with regard to his job responsibilities; that he was misled with regard to the length of his apprenticeship; that the committee is accepting more apprentices than can be trained; that without on-the-job-training he will not receive a

^{3/} 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 complaint stating the unfair practice charge. 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 a charging party, if true, may constitute an unfair practice within the meaning of the Act (N.J.A.C. 19:24-2.1). The Commission's rules provide that I may decline to issue a complaint (N.J.A.C. 19:14-2.3) if it does not meet these standards.

certificate of completion from the U.S. Department of Labor; that he was not given credit for previous experience; that he should not be subject to a six month probationary period; and that he was denied a list of other apprentices who might be in the same position as he. It is claimed the Employer's refusal to address these grievances and the employee organization's refusal "to represent [him] in the grievance procedure," constituted violations under the Act.

However, the Charging Party has failed to indicate in his charge what contract provisions, if any, were violated. ^{4/} Furthermore, it does not appear that the submission of this July 24, 1985 letter to the members of the Apprenticeship Committee, constitutes the filing of a grievance despite the characterization of the July 24, 1985 letter as a list of grievances. It is apparent that the Union and the Turnpike Authority have established a grievance procedure in their contract but it is not alleged that Seegers followed the contractual grievance procedure. If he never initiated a proper grievance, it cannot be claimed that the employer failed to follow the established procedure.


Local 194 filed a statement of position stating that an employee files a grievance by simply raising it verbally with his or her immediate supervisor. This apparently was never done here and, accordingly no grievance has ever been formally filed and, thus, the Association never refused to process said grievance.

^{4/} The Charging Party further failed to provide a contract.

Additionally, although the Charging Party alleged violations under subsections (a)(1) and (3) and (b)(1), it failed to indicate what protected rights the Turnpike Authority and Local 194 interfered with by virtue of their actions in this matter. Similarly, although (a)(7) and (b)(5) violations were alleged, the Charging Party failed to indicate which rules and regulations established by the Commission had been violated.

Accordingly, inasmuch as I have determined the charges to be defective in the aforesaid manner, and inasmuch as the Charging Party has failed to provide any additional information in support of its allegations, I decline to issue a complaint.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Edmund G. Gerber, Director

DATED: April 4, 1986
Trenton, New Jersey