

D.U.P. NO. 97-37

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

In the Matter of

STATE OF NEW JERSEY,
(DEPARTMENT OF PERSONNEL),

Respondent,

-and-

Docket No. CI-97-79

DORINDA RELIFORD,

Charging Party.

SYNOPSIS

The Director of Unfair Practices refuses to issue a complaint on the allegations raised in this charge filed by Dorinda Reliford, an employee of the Human Resource Department Institute, which is within the State's Department of Personnel. Since HRDI employees are confidential employees within the meaning of the Act, Reliford has no standing to file an unfair labor practice charge.

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Charging Party.

Appearances:

For the Charging Party,
Dorinda Reliford, pro se

REFUSAL TO ISSUE COMPLAINT

On May 15, 1997, Dorinda Reliford, an employee of the Human Resource Development Institute (HRDI), which is within the State's Department of Personnel, filed an unfair practice charge alleging that the State of New Jersey, Department of Personnel committed an unfair practice within the meaning of the New Jersey Employer-Employee Relations Act; specifically, N.J.S.A. 34:13A-5.4(a)(1)^{1/} when she was coerced into a settlement of two outstanding disputes. In February and/or March 1997, Reliford's state car privileges were revoked, and she received a disciplinary

^{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."

suspension. Reliford entered into a settlement agreement with the State in which she withdrew her appeal of the loss of car privileges and the State dropped the disciplinary suspension. Reliford now alleges she was coerced into the settlement agreement and seeks its rescission.

In State of New Jersey, D.R. No. 97-1, 22 NJPER 263 (¶27137 1996), req. for rev. pending, I issued a decision finding that HRDI employees are confidential employees within the meaning of the Act. Accordingly, they do not enjoy the protection of the Act.

N.J.S.A. 11-1 et seq. provides that:

all employees of the [Department of Personnel] shall be confidential employees for the purposes of the New Jersey EMPloyer-EMPloyee Relations Act.

N.J.S.A. 34:13A-3(d) defines employee:

The term "employee" shall include any employee, and shall not be limited to the employees of a particular employer unless this act explicitly states otherwise...This term shall include any public employee, i.e., any person holding a position, by appointment or contract, or employment in the service of a public employer, except elected officials, members of boards and commissions, managerial executives and confidential employees.
(emphasis supplied)

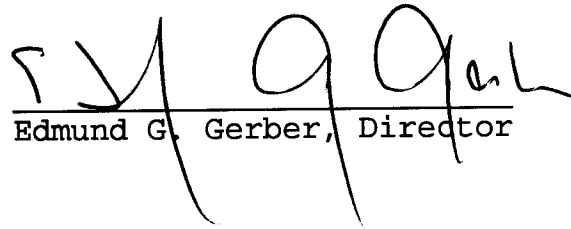
N.J.S.A. 34:13A-5.2 provides that:

...public employees shall have...the right...to form, join and assistant any employee organization...provided, however, that this right shall not extend to...confidential employees....

Reliford has no standing to file an unfair practice charge against the State alleging that her rights under the Act were violated.

I therefore find that the Commission's complaint issuance standard has not been met and I will not issue a complaint on the allegations raised in this charge. N.J.A.C. 19:14-2.3. The charge is dismissed.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES



Edmund G. Gerber, Director

DATED: June 10, 1997
Trenton, New Jersey