

D.U.P. NO. 83-10

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

In the Matter of

UNION COUNTY BOARD OF
SOCIAL SERVICES,

Respondent,

-and-

DOCKET NO. CI-83-27

EDWARD M. MITCHELL,

Charging Party.

SYNOPSIS

A complaint is not issued with respect to a charge relating to the circumstances in which an employee was terminated from a civil service position at the conclusion of his probationary period. The facts do not indicate an interference with rights protected under the Employer-Employee Relations Act.

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REFUSAL TO ISSUE COMPLAINT

An Unfair Practice Charge was filed with the Public Employment Relations Commission ("Commission") on November 22, 1981, by Edward M. Mitchell ("Charging Party") against the Union County Board of Social Services ("Respondent") alleging that the Respondent engaged in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act"), specifically, N.J.S.A. 34:13A-5.4(a)(1). ^{1/}

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

^{1/} N.J.S.A. 34:13A-5.4(a)(1) prohibits public employers, their agents or representatives from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this Act."

stating the unfair practice charge. ^{2/} 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. ^{3/} The Commission's rules provide that the undersigned may decline to issue a complaint. ^{4/}

For the following reasons the undersigned has determined that the Commission's complaint issuance standard has not been met with respect to the instant charge.

The Charging Party alleges that the Respondent unfairly terminated him from a Civil Service position at the conclusion of his probationary period. He alleges that he had been led to believe by his supervisor, that his work performance had been improving and that he would be receiving a favorable evaluation. He claims that he was "duped" into believing that he would be retained by the Respondent, and that his poor evaluation was unexpected. At a meeting attended by the Board's Director and his administrative supervisor, the Charging Party was informed that because of his poor evaluation he would be terminated, unless he resigned. Charging Party asserts that the

^{2/} N.J.S.A. 34:13A-5.4(c) provides in part: "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 before the Commission or any designated agent thereof..."

^{3/} N.J.A.C. 19:14-2.1

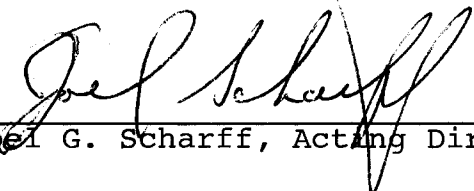
^{4/} N.J.A.C. 19:14-2.3

Director told him that unless he resigned, he would never again be able to obtain a Civil Service position. The Charging Party then resolved to sign his termination notice.

In order for a complaint to issue with respect to §5.4(a)(1), a charging party must allege facts which indicate an interference with rights guaranteed under the Act. The undersigned, having reviewed the statement of the Charge, cannot discern a nexus between the asserted facts and a possible violation of rights guaranteed under the Employer-Employee Relations Act. ^{5/}

Accordingly, the undersigned declines to issue a complaint.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Joel G. Scharff, Acting Director

DATED: March 25, 1983
Trenton, New Jersey

^{5/} The Charging Party has advised that he has commenced an action before the Civil Service Commission.