

STATE OF NEW JERSEY
BEFORE A HEARING EXAMINER OF THE PUBLIC EMPLOYMENT
RELATIONS COMMISSION

In the Matter of

NON-ACADEMIC STAFF ASSOCIATION
OF NEW JERSEY,

Respondent,

-and-

Docket No. CI-77-6-36

ROBERT L. JONES,

Charging Party.

Appearances:

For the Non-Academic Staff Association of New Jersey
Sterns, Herbert & Weinroth
(Michael J. Herbert, of Counsel)

For Robert L. Jones
None

RULING ON A MOTION IN THE
NATURE OF A MOTION TO DISMISS

Robert L. Jones, an individual, brought this action before the Public Employment Relations Commission ("Commission") claiming that the Non-Academic Staff Association of New Jersey ("Association") committed an unfair practice when it failed to properly represent him after he was discharged from his position at Brookdale Community College on February 17, 1974. ^{1/} The Director of Unfair Practices and Representation issued a complaint and notice of hearing in this matter on October 4, 1977, and a prehearing conference was scheduled for November 21, 1977. Mr. Jones never attended that conference nor did he notify the undersigned that he would not be able to attend. The undersigned contacted Jones by telephone at his home in Neptune, New Jersey, on the date of the scheduled conference and at that time Jones requested an adjournment of the scheduled hearing date so that he could retain counsel. The respondent

^{1/} The charge also alleged that the employer, Brookdale Community College, committed an unfair practice when it refused to process Jones' grievance concerning this charge. The Director refused to issue a complaint as to this portion of Jones' charge for reasons not relevant here.

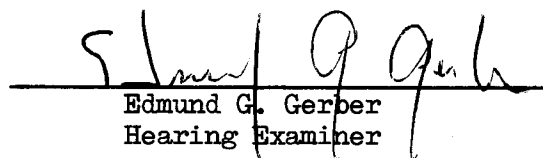
joined in the request for a postponement so that it would have time to file a motion for summary judgment in the instant action. The hearing date was accordingly adjourned and a motion for summary judgment was filed by the Association. Jones never responded to the motion although it was ultimately denied.

A new hearing was then set for April 17, 1978. Jones did not appear on this scheduled hearing date. When the undersigned attempted to contact Jones by telephone on the date of the hearing he was told that Jones was currently living in Washington, D.C., and all his mail was being forwarded to him there.

The Association thereupon moved to dismiss the complaint in this matter for Jones' failure to appear at the hearing.

The hearer declined to rule on the motion at the hearing for it could not be determined whether the charging party was notified of the hearing in accordance with Commission rule 19:10-2.3. ^{2/}

On April 19, the undersigned sent a certified letter to Jones apprising him of the outstanding motion and giving him five days to respond in order to block the granting of the motion to dismiss. The receipt for said letter, signed by Jones, was postmarked April 24, 1977, but as of May 2, the date the return receipt was received at the Commission's offices, Jones had not contacted either the undersigned or the Commission. Accordingly, respondent's motion for dismissal is granted and the complaint is dismissed in its entirety.


Edmund G. Gerber
Hearing Examiner

DATED: Trenton, New Jersey
May 5, 1978

2/ Rule 19:10-2.3 provides:

"(a) Notices of hearings, decisions, orders and other process or papers may be served personally or by registered or certified mail or by telegraph and proof of service established by the verified return of the individual serving the same, setting forth the manner of such service, return post office receipt or telegraph receipt.