

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

In the Matter of

BRICK TOWNSHIP,

Respondent,

-and-

DOCKET NO. CO-81-238

OCEAN COUNCIL #12,

Charging Party.

SYNOPSIS

The Director of Unfair Practices declines to issue a complaint with respect to certain allegations of a charging party that the employer has committed unfair practices by harassing and disciplining an employee and by improperly processing grievances. The unfair practice charge lacks specific factual claims that the employer suspended the employee as a result of her exercise of activities on behalf of the Association and it fails to contain sufficient factual material to support the claim that the employer improperly processed her grievances.

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Appearances:

For the Respondent
Russo & Courtney, attorneys
(Joseph L. Foster, of counsel)

For the Charging Party
Steven Weissman, attorney

REFUSAL TO ISSUE COMPLAINT

An Unfair Practice Charge was filed with the Public Employment Relations Commission (the "Commission") on February 11, 1981 and amended on July 15, 1981 by Ocean Council #12 (the "Charging Party") against Brick Township (the "Respondent") alleging that the Respondent 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. (the "Act").

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. ^{1/} 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. ^{2/} The Commission's rules provide that the undersigned may decline to issue a complaint. ^{3/}

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

Charging Party alleges that the Respondent has "pursued a continued pattern of harassment" against a particular employee ^{4/} and has subjected her to discipline and public embarrassment. A grievance generated by the Charging Party on the employee's behalf concerning her suspension "was processed improperly through the contractual

^{1/} N.J.S.A. 34:13A-5.4(c) provides: "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 containing the date and place of hearing before the commission or any designated agent thereof ... "

^{2/} N.J.A.C. 19:14-2.1

^{3/} N.J.A.C. 19:14-2.3

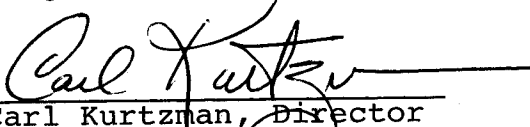
^{4/} Although it is not specifically alleged that the Charging Party is the majority representative for this employee, the undersigned shall assume this fact for the purpose of this determination.

grievance procedure." Additionally, Charging Party alleges that the Respondent denied the employee's request for representation by the Charging Party at a meeting conducted by the Respondent "to discuss her suspension" and that the Respondent threatened a second suspension when the employee requested such representation. A second grievance filed by the Charging Party relating to the alleged denial of representation and accompanying threat was "improperly processed."

The undersigned declines to issue a complaint with respect to those allegations contesting the basis of the Respondent's judgment to discipline the employee. The Charging Party does not allege that the employee was suspended as a result of any protected activity on her part, pursuant to N.J.A.C. 34:13A-5.3, on behalf of Charging Party. Further, the Charging Party has not specifically identified the allegedly "improper" manner by which its two grievances were processed, and the undersigned cannot discern a basis for this claim through review of the appended exhibits to the charge.

Accordingly, the undersigned declines to issue a complaint for the purpose of litigating the facts that the Respondent's determination to discipline the employee herein violated the Act and that the employer's "improper" grievance processing constituted a violation of the Act. 5/

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Carl Kurtzman, Director

DATED: March 23, 1982
Trenton, New Jersey

5/ Thus, the complaint which accompanies this decision is limited solely to the allegations that the employee was denied representation by the Charging Party at the September 8, 1980 meeting and that the respondent threatened further discipline as a result of the request.