

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION  
BEFORE THE ADMINISTRATOR OF UNFAIR PRACTICE PROCEEDINGS

In the Matter of

CITY OF SOUTH AMBOY,

Respondent,

-and-

DOCKET NO. CO-84-90

SOUTH AMBOY PBA, LOCAL 63,

Charging Party.

SYNOPSIS

The Administrator of Unfair Practice Proceedings declines to issue a complaint with respect to an unfair practice charge alleging that the City altered benefits under its medical and surgical insurance plans when it changed carriers. The facts indicate that the parties' dispute is essentially grounded in their different interpretation of contractual language providing for "equivalent benefits" in the event of any change of an insurance carrier. The charge does not contain any factual allegation indicating that the City has acted to repudiate the terms of the agreement.

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION  
BEFORE THE ADMINISTRATOR OF UNFAIR PRACTICE PROCEEDINGS

In the Matter of

CITY OF SOUTH AMBOY,

Respondent,

-and-

DOCKET NO. CO-84-90

SOUTH AMBOY PBA, LOCAL 63,

Charging Party.

Appearances:

For the Respondent

Nicholas R. Smolney, City Business Administrator

For the Charging Party

Robert Bradley Blackman, attorney

REFUSAL TO ISSUE COMPLAINT

On October 3, 1983, as amended October 13, 1983, an Unfair Practice Charge was filed with the Public Employment Relations Commission ("Commission") by the South Amboy PBA, Local 63 ("PBA") alleging that the City of South Amboy ("City") had 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 §§ 5.4(a)(1), (5) and (7). <sup>1/</sup>

<sup>1/</sup> N.J.S.A. 34:13A-5.4(a) 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. (5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative. (7) Violating any of the rules and regulations established by the commission."

The PBA alleges that the City, on April 1, 1983, changed medical and surgical insurance carrier and, in so doing, violated a contractual requirement that any new plan must provide coverage which is equivalent to that provided by the former carriers.

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. <sup>2/</sup> 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. The 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. <sup>3/</sup> The Commission's rules provide that the undersigned may decline to issue a complaint. <sup>4/</sup>

For the reasons stated below, the undersigned has determined that the Commission's complaint issuance standards have not been met. <sup>5/</sup>

<sup>2/</sup> 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..."

<sup>3/</sup> N.J.A.C. 19:14-2.1

<sup>4/</sup> N.J.A.C. 19:14-2.3

<sup>5/</sup> The City has responded to the charge and seeks its dismissal. It avers that the charge was not filed within six months of the occurrence of the alleged unfair practice and therefore is out of time. N.J.S.A. 34:13A-5.4(c). Inasmuch as a complaint is not being issued for the reasons stated above, the City's claim need not be addressed.

As noted above, the PBA alleges that on April 1, 1983, the City unilaterally changed its medical-surgical insurance carrier. The PBA states that this action resulted in a violation of Article II, Section 3 of the parties' collective negotiations agreement,<sup>6/</sup> which provides in part:

It is hereby agreed by the P.B.A. that the City may exercise its rights to change insurance carriers so long as the coverages enumerated in this agreement are maintained at their equivalent levels.

It appears to the undersigned that the charge herein raises a dispute which is purely contractual in nature relating to Article II, Section 3 of the agreement. The instant dispute has as its gravamen the different interpretation that the parties ascribe to the term "equivalent levels," and the rights and obligations this term creates. The City does not deny that the change was made; however, it asserts that the change was made in accordance with the contractual terms. The disagreement concerns solely what are to be considered "equivalent levels" of coverage. There is no allegation of facts describing the parties' prior experience in administering this aspect of the contractual clause which might establish that the City has repudiated contractual terms. Accordingly, the charge does not set forth a basis for a claim that the City has changed the agreement or terms and conditions of employment. See In re State of New Jersey (Human Services), D.U.P. No. 84-11, 9 NJPER 681 (¶ 14299 1983) and In re State of New Jersey (Office of Employee Relations), D.U.P. No. 84-12, 10 NJPER 3 (¶ 15002 1983).

<sup>6/</sup> Effective January 1, 1983 through December 31, 1984.

Based upon the above analysis, the undersigned declines to issue a complaint with respect to the instant charge.

BY ORDER OF THE ADMINISTRATOR  
OF UNFAIR PRACTICE PROCEEDINGS

  
\_\_\_\_\_  
Joel G. Scharff, Administrator

DATED: March 16, 1984  
Trenton, New Jersey