

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

In the Matter of

COUNTY OF BERGEN,

Respondent,

-and-

DOCKET NO. CO-83-275

NEW JERSEY EMPLOYEES LABOR UNION,
LOCAL #1,

Charging Party.

SYNOPSIS

The Director of Unfair Practices refuses to issue a complaint with respect to the Charging Party's allegations that the County has declined to negotiate with it. During the period of the asserted refusal to negotiate, the County had been enjoined by the Commission from further negotiations due to the pendency of a question concerning representation of employees.

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REFUSAL TO ISSUE COMPLAINT

An Unfair Practice Charge was filed with the Public Employment Relations Commission (the "Commission") on April 20, 1983, by the New Jersey Employees Labor Union, Local No. 1 ("Local 1") against the County of Bergen ("County") alleging that the County 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")), specifically N.J.S.A. 34:13A-5.4(a)(5). ^{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) prohibits public employers, their representatives and agents from: "(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."

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 reasons stated below, the undersigned has determined that the Commission's complaint issuance standards have not been met.

Local 1 states that it is the recognized majority representative of certain employees of the County and holds a collective negotiations agreement with the County effective January 1, 1980 through December 31, 1982. Local 1 further states that negotiations for a successor agreement with the County commenced. ^{5/} However, Local 1 states that Local 29, RWDSU ("Local 29") filed a Petition for Certification of Public Employee Representative with the Commission seeking to

^{2/} 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 ingaging 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..."

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

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

^{5/} The County, in its statement of position stated that negotiations commenced on or about September 1, 1982.

represent a portion of the employees in the unit represented by Local 1, ^{6/} and on January 7, 1983, a Commission designee issued an Interlocutory Decision and Order ^{7/} restraining the County from continuing negotiations with Local 1. ^{8/} Local 1 alleges that the County has violated the Act by refusing to negotiate with it for a successor agreement.

It does not appear from the allegations of the Charging Party that the County's refusal to negotiate is based upon any factor other than its determination to comply with a Commission order. As indicated in n. 7 below, Commission records reveal that Local 1's motion for leave to appeal to the Appellate Division seeking to vacate the interim relief order was denied. The matter was subsequently referred to the Commission, for reconsideration by Local 1, and the Commission declined to lift the injunction.

Based upon the above, the undersigned cannot discern a basis for complaint issuance, particularly where the County's action, complained of by the Charging Party, was mandated by Commission order. It would further appear that the instant charge is an inappropriate collateral attack upon the Commission proceeding in which the order was issued. The Commission's adjudication of the issue raised herein

^{6/} The Petition, Docket No. RO-83-61, was filed on October 4, 1982 and amended on October 20, 1982. Pursuant to N.J.A.C. 19:11-2.8(c) such Petition was timely filed.


^{7/} In re County of Bergen, I.R. No. 83-12, 9 NJPER _____ (¶ _____ 1983), motion for leave to appeal den. App. Div. No. AM-443-82T1.

^{8/} In Docket No. CO-83-149-62, filed on December 21, 1982 and amended on March 14, 1983, Local 29 has alleged that the County violated the Act by continuing to negotiate with Local 1 after Local 29 had filed its representation petition.

will take place at the conclusion of the plenary hearing proceedings in Docket No. CO-83-149-62, in which Local 1 is participating.

For the above reasons, the undersigned declines to issue a complaint.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Carl Kurtzman, Director

DATED: May 31, 1983
Trenton, New Jersey