

D.U.P. NO. 91-7

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

In the Matter of

CAMDEN COUNTY COLLEGE,

Respondent,

-and-

Docket No. CI-91-4

RICHARD ZALESKI,

Charging Party.

SYNOPSIS

The Director of Unfair Practices refuses to issue a complaint on an unfair practice charge citing violations of subsection 5.4(a)(3) of the Act because the Charging Party fails to include facts alleging a relationship between the College's action and his protected rights under the Act.

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Appearances:

For the Respondent,
William J. Wilhelm, Director of Personnel, Labor Relations

For the Charging Party,
Richard Zaleski, pro se

REFUSAL TO ISSUE COMPLAINT

On July 19, 1990, Richard Zaleski ("Charging Party") filed an Unfair Practice Charge with the Public Employment Relations Commission ("Commission"). The Charge alleges that the Camden County College ("College") 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 N.J.S.A. 34:13A-5.4(a)(3).^{1/}

^{1/} This subsection prohibits public employers, their representatives or agents from: "(3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this 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 charged.^{2/} The Commission has delegated its authority to issue complaints to me 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.^{3/} The Commission's rules provide that I may decline to issue a complaint.^{4/}

For the reasons stated below, I have concluded that the Commission's complaint issuance standard has not been met.

The Charging Party is a professor at the College. He believes that the College discriminated against him regarding hours and wages when his request to teach nine contact hours during the first, five week, 1990 Summer Session was denied without explanation

^{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 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 charged 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.

by the College. His summer teaching schedule was limited to six contact hours while other faculty members were assigned to teach twelve contact hours, thus allowing them to earn twice his summer salary.

The Charging Party does not assert that he was discriminated against in retaliation for any activities on behalf of an employee organization, or because he filed a grievance, or for the exercise of other activity protected by the Act.^{5/} See N.J.S.A. 34:13A-5.3. Accordingly, the unfair treatment alleged in the Charge has no relationship to the protections afforded employees under the Act, and is not a violation of subsection (a)(3) derivatively. See In re Bridgewater Tp., P.E.R.C. No. 82-3, 7 NJPER 434 (¶12193 1981), recon. den. P.E.R.C. No. 82-36, 7 NJPER 600 (¶12267 1981), aff'd App. Div. Dkt. No. A-859-81T2 (6/21/82), aff'd 95 N.J. 235 (1984); Edison Bd. of Ed., D.U.P. No. 85-18, 11 NJPER 103 (¶16044 1985); Essex Cty. Div. of Welfare, D.U.P. No. 85-25, 11 NJPER 439 (¶16150 1985).

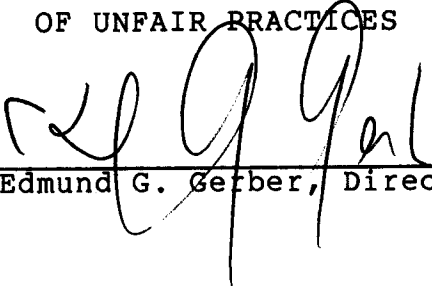
The Charging Party was informed by letter dated August 7, 1990, that the Charge would only be actionable if he claimed that the discrimination against him was related to activities protected by the Act. His August 16, 1990 response reiterated his claim of a subsection (a)(3) violation, but did not include facts alleging a

^{5/} Charging Party does not even indicate if he is represented for the purpose of collective negotiations by an employee representative.

relationship between the College's action and his protected rights under the Act.

Accordingly, I decline to issue a complaint and dismiss the unfair practice charge.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES



Edmund G. Gerber, Director

DATED: August 24, 1990
Trenton, New Jersey