

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

In the Matter of

BERGEN COUNTY BOARD OF
VOCATIONAL EDUCATION,

Respondent,

-and-

DOCKET NO. CI-79-59

HENRY S. CUMMINGS & ELEANOR G.
DAUT,

Charging Parties.

SYNOPSIS

The Director of Unfair Practices declines to issue a complaint with respect to an Unfair Practice Charge filed by two individuals who claimed that the provisions of a collective negotiations agreement discriminated against certain employees. The Charging Parties did not claim that they were injured or affected by the alleged unfair practice. The Director, noting that proceedings are appropriate where a litigant has been injured in some manner, determines that formal proceedings with respect to the Charge should not be instituted.

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Appearances:

For the Respondent
Greenberg & Covitz, attorneys
(Morton R. Covitz, of counsel)

For the Charging Parties
Henry S. Cummings & Eleanor Daut, pro se

REFUSAL TO ISSUE COMPLAINT

An Unfair Practice Charge was filed with the Public Employment Relations Commission (the "Commission") on June 20, 1979 and amended September 18, 1979 by Henry S. Cummings and Eleanor Daut (the "Charging Parties") against the Bergen County Board of Vocational Education (the "Board") alleging that the Board 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., specifically, N.J.S.A. 34:13A-5.4(a)(1), (3) and (5). ^{1/}

N.J.S.A. 34:13A-5.4(c) provides that "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 ... " 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 to the director of unfair practices, that the allegations of the charging party, if true, may constitute unfair practices on the part of the respondent, and that formal proceedings in respect thereto should be instituted in order to afford the parties an opportunity to litigate relevant legal and factual issues ... " ^{2/}

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

^{1/} These subsections prohibit 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. (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. (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.

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

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

For the reasons stated below, it does not appear to the undersigned that the Commission's complaint issuance standards have been met.

It appears that Cummings and Daut are current employees of the Board and are not affected by the claimed discriminatory provision. ^{4/} On March 25, 1980, the undersigned advised the Charging Parties:

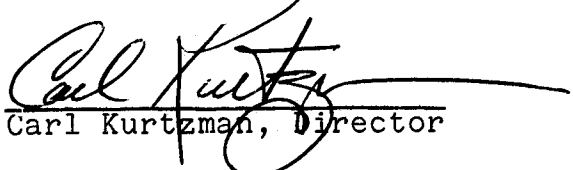
Normally, proceedings are appropriate where a litigant has been injured in some manner. The amended Charge lists two individuals who, along with other unnamed teachers, allegedly were not paid their deferred salaries when they left the school district. However, the two individuals are not Charging Parties herein. The Charge does not allege that the Charging Parties have themselves been denied their deferred salaries.

The undersigned informed the Charging Parties that, for the above reasons, litigation of the unfair practice claims was inappropriate. The Charging Parties were provided with an opportunity to state reasons as to why a complaint should issue. However, no response has been received.

^{4/} On January 28, 1980, the Charging Parties submitted a letter stating that the name of Henry S. Cummings, one of the Charging Parties, should be removed from the Charge and replaced by the name Al Hess. Mr. Hess allegedly left the school district and did not receive his deferred compensation. In the undersigned's letter of March 25, 1980, the Charging Parties were advised that their January 28 correspondence did not constitute the filing of a Charge by Mr. Hess against the Board.

Accordingly, the undersigned determines that formal proceedings with respect to the Charge should not be instituted and hereby declines to issue a complaint.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Carl Kurtzman, Director

DATED: May 14, 1980
Trenton, New Jersey