

D.U.P. NO. 2023-17

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

In the Matter of

ROCKAWAY BOROUGH,

Respondent,

-and-

Docket No. CO-2021-047

TEAMSTERS LOCAL UNION NO. 469,

Charging Party.

**SYNOPSIS**

The Director of Unfair Practices dismissed an unfair practice charge filed by Teamsters Local Union No. 469 (Teamsters) against the Borough of Rockaway (Borough). The Teamsters alleged the Borough violated sections 5.4a(1), (3) and (5) of the New Jersey Employer-Employee Relations Act (Act) when it required Teamsters' unit employees to use a time clock to record their hours of work at the beginning and end of each day. The Director held, based on judicial and Commission precedent, that the Borough's decision to implementing time-keeping procedures for unit employees is a managerial prerogative and the Borough did not violate the act by unilaterally implementing time-keeping procedures for unit employees.

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Appearances:

For the Respondent,  
Cleary, Giacobbe, Alfieri, Jacobs, LLC, attorneys  
(Adam S. Abramson-Schneider, of counsel)

For the Charging Party,  
Law Offices of Timothy R. Hott, attorneys  
(Timothy R. Hott, of counsel)

**REFUSAL TO ISSUE COMPLAINT**

On September 3, 2020, Teamsters Local Union No. 469 (Local 469) filed an unfair practice charge against Rockaway Borough (Borough), alleging that the Borough violated section 5.4a(1), (3) and (5)<sup>1/</sup> of the New Jersey Employer-Employee Relations Act

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<sup>1/</sup> These provisions prohibit 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; (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; and (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 (continued...)"

(Act), N.J.S.A.34:13A-1 et seq, when it started requiring unit members to use a time clock to record their hours of work. Specifically, Local 469 alleges that unit members are now required to use a time clock at the beginning and end of each day and for lunch breaks. Local 469 alleges that the County refused to negotiate over the new time-keeping requirement and that it is also discriminating against Local 469, as non-unit employees in similar job categories are not required to record their hours worked.

The Borough denies that it violated the Act. It asserts that it has a managerial prerogative to implement the use of time clocks and that other overtime eligible non-unit employees are required to record their time.

The Commission has authority to issue a complaint where it appears that the charging party's allegation, if true, may constitute an unfair practice within the meaning of the Act. N.J.S.A. 34:13A-5.4c; N.J.A.C. 19:14-2.1. The Commission has delegated that authority to me. Where the complaint issuance standard has not been met, I may decline to issue a complaint. N.J.A.C. 19:14-2.3. I find the following facts.

On or about August 1, 2020 and continuously thereafter, the Borough Administrator implemented a requirement for unit members

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1/ (...continued)  
in that unit, or refusing to process grievances presented by the majority representative."

to use time clocks. The new procedure required unit employees to use a time clock to record the start and end of their shifts and lunch periods. According to the Borough, time clocks are required to keep accurate time records for overtime and are used by the majority of overtime eligible employees in the DPW, police department, and other departments.

### **ANALYSIS**

The Commission and courts have long held that a public employer has a managerial prerogative to establish and implement time-keeping procedures to verify that employees are at work. City of Elizabeth and Elizabeth Superior Officers Ass'n and PBA Local 4, P.E.R.C. No. 2016-83, 42 NJPER 568 (¶158 2016), aff'd 44 NJPER 99 (¶32 App. Div. 2017) (City's implementation of system in police department was neither mandatorily nor permissively negotiable); South Hackensack Bd. of Ed., P.E.R.C. No. 98-70, 24 NJPER 14 (¶29009 1997) (Board's replacement of sign in/out sheets with time clocks for punching in/out was not negotiable); Butler Bor., P.E.R.C. No. 94-51, 19 NJPER 587 (¶24281 1993) (requirement that employees punch in/out for lunch was not mandatorily negotiable).

In Elizabeth, the SOA grieved the institution of time clocks because they were only required for Detective Bureau members and not other officers. The Commission relied on North Bergen Bd. of Ed., P.E.R.C. No. 92-5, 17 NJPER 378 (¶22177 1991), a case where

the Commission held the implementation of time clocks for maintenance employees, but not other employees, was neither mandatorily negotiable nor arbitrable. The Commission specifically found that the union's allegation that the employer discriminatorily instituted the time clock policy was also not arbitrable.

Accordingly, I find that the Borough has acted within its managerial prerogative in implementing the use of time clocks for the unit employees. The Borough has no obligation to negotiate with Local 469 prior to implementing its managerial policy to require time clock usage. Elizabeth.<sup>2/</sup>

Based upon the foregoing, I find that the allegations of the charge do not meet the Commission's Complaint issuance standard, and I decline to issue a Complaint.

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<sup>2/</sup> No facts are alleged to support an (a)(3) violation. The (a)(3) claim is, therefore, dismissed.

**ORDER**

The unfair practice charge is dismissed.

/s/Ryan M. Ottavio  
Ryan M. Ottavio  
Director of Unfair Practices

DATED: January 12, 2023  
Trenton, New Jersey

**This decision may be appealed to the Commission pursuant to  
N.J.A.C. 19:14-2.3.**

**Any appeal is due by January 24, 2023.**