

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

In the Matter of

NEW JERSEY HIGHWAY AUTHORITY
(GARDEN STATE PARKWAY)

Respondent,

-and-

DOCKET NO. CO-79-311

LOCAL 196, I.F.P.T.E.,
AFL-CIO,

Charging Party.

SYNOPSIS

The Director of Unfair Practices declines to issue a complaint with respect to an Unfair Practice Charge alleging that the employer has violated N.J.S.A. 34:13A-5.4(a)(3). The Commission is precluded from issuing complaints unless the Charging Party, in its Charge, makes specific factual allegations, not conclusory statements, which may, if true, constitute unfair practices on the part of the respondent. The Charging Party has failed to amend its Charge to allege specific facts which, if true, may constitute unfair practices.

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REFUSAL TO ISSUE COMPLAINT

An Unfair Practice Charge was filed with the Public Employment Relations Commission (the "Commission") on May 15, 1979 by Local 196, I.F.P.T.E., AFL-CIO (the "Charging Party") against the New Jersey Highway Authority (Garden State Parkway) (the "Respondent") alleging that the Respondent 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)(3). ^{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

^{1/} This subsection prohibits 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 their rights guaranteed to them by this Act."

engaging in any unfair practice, and that it has the authority to issue a complaint 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.

Consistent with its complaint issuance standards, the Commission's rules state that an unfair practice charge shall contain inter alia:

A clear and concise statement of the facts constituting the alleged unfair practice, including, where known, the time and place of occurrence of the particular acts alleged and the names of respondent's agents or other representatives by whom committed and a

^{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 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

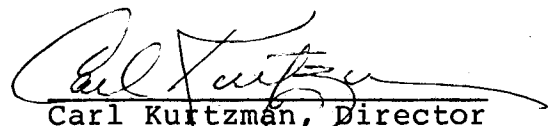
statement of the portion or portions of the Act alleged to have been violated." (Emphasis added) 5/

Accordingly, it is incumbent upon the Charging Party to allege specific factual allegations, not conclusionary statements, which may, if true, constitute unfair practices on the part of the respondent.

Subsequent to the filing of the instant Unfair Practice Charge, by letter dated May 18, 1979, the undersigned informed the Charging Party that the Charge could not be processed further unless it was amended, pursuant to N.J.A.C. 19:14-1.5, to include the specific factual information required by N.J.A.C. 19:14-1.3.^{6/} The undersigned advised that a complaint would not issue if the Charging Party failed to state specific factual allegations. The undersigned has not received a reply to the May 18, 1979 letter, nor has the Charge been amended, as requested

Accordingly, as the Charge does not state facts which, if true, may constitute unfair practices on the part of the Respondent, the undersigned declines to issue a complaint.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Carl Kurtzman, Director

DATED: July 26, 1979
Trenton, New Jersey

5/ N.J.A.C. 19:14-1.3

6/ The Charge herein states: "On or about May 10th 1979 the N.J.H.A. (GARDEN STATE PARKWAY), through it's agents and supervisors have discriminated in regards to terms and conditions of employment in violation of rights guaranteed them by the Act."