

D.U.P. NO. 94-41

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

In the Matter of

UNITED INDEPENDENT UNION,

Respondent,

-and-

Docket No. CI-94-41

JOSEPH L. LABENZ, III,

Charging Party.

SYNOPSIS

The Director of Unfair Practices refuses to issue a complaint on a charge brought by Joseph LaBenz, III, against the United Independent Union, alleging he did not receive proper representation on a grievance. LaBenz alleges that on May 21, 1993, he was notified by the union attorney that the union will not proceed further on his grievance. However, LaBenz filed his unfair practice charge on January 25, 1994. N.J.S.A. 34:13A-5.4(c) precludes the Commission from issuing a complaint where an unfair practice charge has not been filed within six months. Accordingly, the charge is out of time.

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Appearances:

For the Respondent,
Francis Chippardi, President

For the Charging Party,
Joseph L. LaBenz, III, pro se

REFUSAL TO ISSUE COMPLAINT

On January 25, 1994, Joseph LaBenz, III, filed an unfair practice charge with the Public Employment Relations Commission alleging that he did not get proper representation from his employee representative when he grieved a "lateral reassignment" that entailed new work hours.

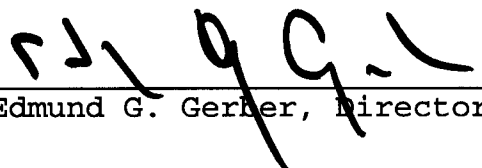
LaBenz alleges that on May 21, 1993, he received a letter from the union attorney stating that it was his belief that he did not have a case and the union "will not proceed any further."

It is apparent from the facts alleged by LaBenz that the union notified him that it would not represent him more than six

months prior to the filing of his unfair practice charge.^{1/}
N.J.S.A. 34:13A-5.4(c) precludes the Commission from issuing a complaint where an unfair practice charge has not been filed within six (6) months of the occurrence of any unfair practice, unless the aggrieved person was prevented from filing the charge. See In re North Warren Bd. of Ed., D.U.P. No. 78-7, 4 NJPER 55 (14026 1977).

Therefore, I do not believe that the Commission's complaint issuance standard has been met and decline to issue a complaint on the allegations of this charge.^{2/} The charge is dismissed.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Edmund G. Gerber, Director

DATED: April 13, 1994
Trenton, New Jersey

^{1/} On February 24, 1994, LaBenz sought to amend his charge claiming the union conduct constituted "continuing violation". However, he failed to allege any new facts in support of this position.

^{2/} N.J.A.C. 19:14-2.3.