

A.B.D. No. 95-2

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION APPEAL BOARD

OAL DKT NO. PRB-0730-94
AGENCY DKT NO. AB-94-5

HANCEY H. DAVIS,

Petitioner,

v.

**COMMUNICATIONS WORKERS
OF AMERICA, AFL-CIO, LOCAL 1081,**

Respondent.

Hancey H. Davis pro se

Carla Markim Siegel, Esq., member of the Maryland Bar, admitted pro hac vice for respondent (Zwerdling, Paul, Leibig, Kahn, Thompson & Driesen, attorneys)

Attorney of Record: **Lisa Morowitz**, Esq., (Weissman and Mintz, attorneys)

DECISION AND ORDER

On December 20, 1993, Hancey H. Davis filed a petition of appeal with the Public Employment Relations Commission Appeal Board ("Appeal Board"). Davis pays a representation fee in lieu of dues to the Communications Workers of America, Local 1081. The petition sought a full explanation of CWA's chargeable and non-chargeable expenditures for fiscal years 1990 through 1993 and a refund of all representation fees based upon those fiscal years.

On January 11, 1994 CWA filed an Answer. On January 27, 1994 the case was referred to the Office of Administrative Law ("OAL") for hearing and assigned to Administrative Law Judge Ken R.

Springer. On November 10, 1994 Judge Springer issued a "Partial Summary Decision" which recommended granting in part CWA's motion to dismiss the petition on timeliness grounds. On December 13, 1994, we adopted, as modified, Judge Springer's recommendation and dismissed that the portion of the petition challenging the propriety of representation fees assessed by CWA Local 1081 for the dues year June 1, 1991 through May 31, 1992 and the dues year June 1, 1992 through May 31, 1993. A.B.D. No. 95-1, ___ NJPER _____ (¶ , 1994). We remanded the matter to Judge Springer to determine the propriety of representation fees assessed on the petitioner for the dues year commencing June 1, 1993.

On March 6, 1995 Judge Springer issued an "Initial Decision" which has been served on the parties. The decision orders that the remainder of petitioner's appeal be dismissed. Neither party has filed exceptions. The decision is now before the Appeal Board to adopt, reject or modify.^{1/}

The ALJ's decision discusses the specific issues raised by the petitioner relating to the calculation and use of the representation fee to which the CWA was directed to respond. The ALJ found that the evidence produced by the CWA met its burden of proof and that the disputed expenses were, as a matter of law, chargeable to nonmembers. In the absence of exceptions we adopt the Initial Decision.

ORDER

The Initial Decision of the Office of Administrative Law (attached hereto) in AB-94-5 is hereby adopted and the petitioner's appeal of her 1993-1994 representation fee is hereby dismissed.

BY ORDER OF THE APPEAL BOARD

WILLIAM L. NOTO
Chairman

DATED: TRENTON, NEW JERSEY
April 17, 1995
ISSUED: