

P.E.R.C. NO. 84-112

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RIDGEFIELD PUBLIC LIBRARY,

Respondent,

-and-

Docket No. CO-84-29-33

RIDGEFIELD LIBRARY ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission, accepting a recommended conclusion of a Hearing Examiner in the absence of exceptions, holds that the Ridgefield Public Library violated the New Jersey Employer-Employee Relations Act when one of its trustees made certain comments which tended to interfere with, restrain, and coerce negotiators representing the Ridgefield Library Association. The Commission, however, holds that the Association has failed to prove any of their remaining allegations by a preponderance of the evidence. The Commission specifically agrees with the Hearing Examiner that legitimate business concerns rather than anti-union animus motivated the Library's decision to reduce the hours of its clerical employees and further notes that there is no allegation that the Library refused to negotiate over the change in hours.

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In the Matter of

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Docket No. CO-84-29-33

RIDGEFIELD LIBRARY ASSOCIATION,

Charging Party.

Appearances:

For the Respondent, Mariniello & Oury, Esqs.
(John J. Roman, Jr., of Counsel)

For the Charging Party, Bernice Ranieri, Pro Se
and Patricia A. Knox, Pro Se

DECISION AND ORDER

On August 1, 1983, Patricia Knox and Bernice Ranieri filed an unfair practice charge on behalf of the Ridgefield Library Association ("Association") against the Director of the Ridgefield Public Library ("Library")^{1/} with the Public Employment Relations Commission. The charge alleged that the Library violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act"), in particular subsections 5.4(a)(1), (2), (3), and (5)^{2/} when it reduced the work hours of

^{1/} At the hearing, the names of the parties were amended in conformance with the caption of this case.

^{2/} These subsections 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; (2) Dominating or interfering with the formation, existence or administration of any employee organization; (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 (continued).

Knox and Ranieri; allegedly sought to discourage employees from supporting the Association and Knox and Ranieri; allegedly violated its contract with the Association; and allegedly refused to negotiate in good faith towards a successor contract.^{3/}

On September 19, 1983, the Director of Unfair Practices issued a Complaint and Notice of Hearing. On September 29, 1983, the Library filed an Answer denying the material allegations of the Complaint.

On December 5, 7, 8, and 9, 1983, Hearing Examiner Alan R. Howe conducted a hearing. The parties examined witnesses, introduced exhibits, argued orally, and filed post-hearing briefs.

On January 20, 1984, the Hearing Examiner issued his report and recommended decision. H.E. No. 84-36, 10 NJPER ____ (¶ ____ 1984) (copy attached). Concluding that one of the Library's trustees had made two statements which violated subsection 5.4(a)(1) of the Act, he recommended an order requiring that such statements cease and that the Library post a notice of its intention to cease making such statements. He also concluded that Knox and Ranieri had not proved by a preponderance of the evidence any of the other alleged violations. He

2/ (continued)

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 in that unit, or refusing to process grievances presented by the majority representative."

3/ The charge is very detailed. A fuller and accurate description of its contents is set forth on pp. 1-3 of the Hearing Examiner's report. While violations of subsections 5.4(a)(4), (6), and (7) were also alleged, these allegations were dismissed during the hearing for want of evidence and will not be further discussed. We also note that a petition to decertify the Association as majority representative has been filed and has been held in abeyance pending this decision.

specifically found that the Library did not discriminatorily reduce Ranieri's and Knox's work hours, but instead had a budget problem (stemming from an emergency repair) justifying this action.^{4/}

On January 30, 1984, the Library notified the Commission that it had complied with the recommended remedial order. The Library has not filed any exceptions.

On February 28, 1984, Knox, after receiving an extension of time, filed exceptions. She excepts to certain findings of fact; submits the Library's 1983 Treasurer's report as additional evidence;^{5/} argues that the Library's claimed budgetary problems were a pretext to discriminate against her and Ranieri; and asserts that the Library has violated the spirit of the Hearing Examiner's recommended remedial order by allegedly granting 6% raises and retroactive pay without negotiations.^{6/}

We have reviewed the record. The Hearing Examiner's findings of fact (pp. 4-7) are accurate with one minor modification.^{7/}

^{4/} There is no allegation that the Library refused to negotiate with the Association over the reduction in hours. In fact, the record shows that other members of the clerical staff besides Knox and Ranieri approved the decision to spread the reduction among all employees rather than to retain Knox and Ranieri as full time employees at the expense of other employees.

^{5/} This report was allegedly made public at a December 28, 1983 meeting.

^{6/} Knox has also requested oral argument. This request is denied.

^{7/} Finding of fact no. 4 is modified to reflect that Lauren Johnson received \$3.85 (not \$3.35) per hour when she became a junior library clerk. Knox's remaining exceptions to the findings of fact are either unfounded in the record, answered by the Hearing Examiner's implicit determination to credit other witnesses instead of Knox and Ranieri, or actually consistent with the Hearing Examiner's findings. We specifically note that the

(continued)

We adopt and incorporate these findings of fact, as modified, here.

The Hearing Examiner concluded that the Library violated subsection 5.4(a)(1) when one of its trustees made certain comments which had a tendency to interfere with, restrain, and coerce the Association's negotiators. This conclusion is supported by the facts and not challenged by the Library. We adopt it.^{8/}

The Hearing Examiner also concluded that Knox and Ranieri had failed to prove any of their remaining allegations by a preponderance of the evidence. Based on our review of the record and under all the circumstances of this case, we agree. We specifically agree with his conclusion, based on his findings of fact and implicit credibility determinations, that legitimate

7/ (continued)

Hearing Examiner's findings concerning the 1983 budget of projected revenues and expenditures and the emergency finance repairs are accurate and are not contradicted by the post-hearing submission of the 1983 Treasurer's report based on monies actually spent. Further, the Treasurer's report is inadmissible at this stage of the proceedings absent a motion to reopen the record for further testimony concerning its authenticity and clarifying its significance. We do not believe such a motion would be appropriate now since the focus of this case is the legitimacy of the decision made to reduce hours in June, 1983 in light of anticipated budget receipts and expenditures and not the necessity of that decision using hindsight based on actual receipts and expenditures, including savings realized through the very reduction in hours in question.

8/ Since the Library has already complied with the Hearing Examiner's recommended remedial order concerning this violation, we will not require reposting. We do not consider the merits of Knox's post-hearing contention that the Library violated the Act when, on January 28, 1984, it voted to grant 6% raises and retroactive pay, although we do note that the record reflects the parties' agreement during the May and June, 1983 negotiations on a 6% raise.

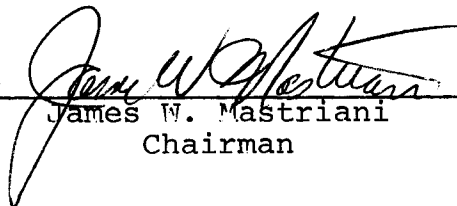
business concerns rather than anti-union animus motivated the Library's decision to reduce the hours of its clerical employees. Twp. of Bridgewater and Bridgewater Public Works Ass'n, P.E.R.C. No. 82-3, 7 NJPER 434 (¶12193 1981), mot. for recons. den. P.E.R.C. No. 82-36, 7 NJPER 600 (¶12267 1981), aff'd App. Div. Docket No. A-859-81T2, aff'd __ N.J. __ (1984). Accordingly, we dismiss all allegations of the Complaint besides those concerning the trustee's statements which violated subsection 5.4(a)(1).

ORDER

The Ridgefield Public Library is ordered to cease and desist from interfering with, restraining, or coercing its employees in the exercise of the rights guaranteed to them by the Act, particularly by refraining from making statements to employees which undermine ongoing collective negotiations or undermine the status or standing of the Ridgefield Library Association.

The Commission dismisses all other allegations of the Complaint besides those concerning the trustee's statements which violated N.J.S.A. 34:13A-5.4(a)(1).

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Newbaker, Suskin, Butch and Wenzler voted for this decision. Commissioner Hipp concurs with the finding of an unfair practice, but would also require the posting of a Notice. Commissioner Graves was not present.

DATED: Trenton, New Jersey
April 12, 1984
ISSUED: April 13, 1984

STATE OF NEW JERSEY
BEFORE A HEARING EXAMINER OF THE
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RIDGEFIELD PUBLIC LIBRARY, 1/

Respondent,

-and-

Docket No. CO-84-29-33

RIDGEFIELD LIBRARY ASSOCIATION, 1/

Charging Party.

SYNOPSIS

A Hearing Examiner recommends that the Public Employment Relations Commission find that the Respondent Library independently violated Section 5.4 (a)(1) of the New Jersey Employer-Employee Relations Act when a member of its Board of Trustees during collective negotiations made coercive statements which tended to interfere with the functions of the negotiators for the Association and undermined the Association. The Hearing Examiner further recommended dismissal of charges that the Library discriminatorily reduced the hours of two employees, who were active on behalf of the Association, since the Library established a legitimate business justification for its actions, namely, budget constraints for the year 1983.

A Hearing Examiner's Recommended Report and Decision is not a final administrative determination of the Public Employment Relations Commission. The case is transferred to the Commission which reviews the Recommended Report and Decision, any exceptions thereto filed by the parties, and the record, and issues a decision which may adopt, reject or modify the Hearing Examiner's findings of fact and/or conclusions of law.

1/ As amended at the hearing.

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Appearances:

For the Ridgefield Public Library
Mariniello & Oury, Esqs.
(John J. Roman, Jr., Esq.)

For the Ridgefield Library Association
Bernice Ranieri, Pro Se
Patricia A. Knox, Pro Se

HEARING EXAMINER'S RECOMMENDED
REPORT AND DECISION

An Unfair Practice Charge was filed with the Public Employment Relations Commission (hereinafter the "Commission") on August 1, 1983 by the Ridgefield Library Association (hereinafter the "Charging Party" or the "Association") alleging that the Ridgefield Public Library (hereinafter the "Respondent" or the "Library") had engaged in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act, as amended, N.J.S.A. 34:13A-1 et seq. (hereinafter the "Act"), in that the Respondent (1): did not inform new employees of the existence of the Association and their right to become members, and that three new employees were told that they were "management" and not eligible for membership in the Association; that the Respondent hired four new employees at a salary lower than provided for in the existing collective negotiations agreement; that the Respondent promoted to a supervisory position the then President of the

^{1/} As amended at the hearing.

Association, Betty C. Schacher, without negotiations with the Association; that the Respondent discriminated against two active members of the Association, Bernice Ranieri and Patricia A. Knox, by reducing them from full-time employees to part-time employees during negotiations for a successor agreement; and the Respondent deliberately misquoted Knox in the minutes of a meeting of the Board of Trustees of the Respondent in May 1983, the effect of which placed Knox in the position of assuming additional hours from three other employees, all of whom subsequently resigned from the Association;

(2): beginning in early September 1981, the Respondent sought to designate its choice of Association representative in negotiations by preferring Schacher over Ranieri, as to which the Respondent was successful; Schacher on April 1, 1982, in her capacity as Acting Director of the Respondent, informed Ranieri that the Respondent would not hire Lauren Johnson as a full-time employee because the Respondent felt that Ranieri would be an "undesirable influence on her" and when Johnson did not obtain a permanent position Schacher told her that it was Ranieri's fault; on April 1, 1982 Schacher told Ranieri that if she, Schacher, did not obtain the position of Director Ranieri had better "watch it" and, further, Schacher told Ranieri that the Respondent felt that she, Ranieri, was "too strong" and that she should let things calm down, the reference to "too strong" being that Ranieri had represented an employee, Joan DiSpagna, in a grievance regarding the salary that DiSpagna was being paid under the Association agreement; in May 1983 Frank Pellino, a Trustee of the Respondent, in response to a question by Knox regarding the status of contract negotiations, stated "What contract, that's all over with - finished" when the fact was that negotiations had not as yet been concluded; also, in May 1983, Pellino, in a meeting with Association representatives Knox and Samuel S. Saporito stated at one point, "What Association?" and then added "There's only the two of you;" and on July 12, 1983 Saporito resigned

2/ The Hearing Examiner dismissed on his own motion this allegation inasmuch as the Respondent had a managerial prerogative to promote an employee in the unit to supervision without negotiations with the Association. See NLRB v. Ford Motor Co., ___ F.2d ___, 110 LRRM 3202 (6th Cir. 1982).

from the Association after having been asked by the Respondent's President, Mildred Fleming, to find out how the professionals could get out of the Association, following which Saporito, with help from Schacher, petitioned the Commission for decertification of the Association; (3): at a May 1983 meeting of the Respondent, in the midst of negotiations, Knox and Ranieri had their hours reduced from 35 hours to 24 hours per week, which resulted in their being reduced to part-time status, which reduction in hours was proportionately greater than that imposed on other employees; Schacher, as Director, has assigned to the professional librarians some of the clerical duties performed by Knox and Ranieri; and the Respondent, in alleged violation of the agreement, told Knox that she must use all of her sick leave before the end of 1983; (4): also, during negotiations, Schacher discharged Ranieri on December 16, 1982, which discharge was amicably resolved by reinstatement on February 14, 1983; and Schacher refused a request by Ranieri to move a copying machine away from Ranieri's work location, notwithstanding medical justification asserted by Ranieri for so doing; Ranieri and Knox have been refused floating holidays and compensatory time off by Schacher unlike other employees of the Respondent; and (5): the Respondent has refused to negotiate in good faith with the Association by failing to provide members of the Association with offers on negotiable items in writing. All of the foregoing is alleged to be a violation of N.J.S.A. 34:13A-5.4(a)(1), (2), (3), (4), (5), (6) and (7).^{3/}

^{3/} The Charging Party withdrew at the hearing allegations of a violation by the Respondent of Subsections 5.4(a)(4), (6) and (7) of the Act. The remaining Subsections provide as follows, namely, that public employers, their representatives or agents are prohibited from:

"(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this Act.

"(2) Dominating or interfering with the formation, existence or administration of any employee organization.

"(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."

It appearing that the allegations of the Unfair Practice Charge, if true, may constitute unfair practices within the meaning of the Act, a Complaint and Notice of Hearing was issued on September 19, 1983. Pursuant to the Complaint and Notice of Hearing, hearings were held on December 5, 7, 8, and 9, 1983, in Newark, New Jersey, at which time the parties were given an opportunity to examine witnesses, present relevant evidence, and argue orally. Both parties argued orally on December 9, 1983 and filed post-hearing briefs on December 27, 1983.

An Unfair Practice Charge having been filed with the Commission, a question concerning alleged violations of the Act, as amended, exists and, after hearing, and after consideration of the oral argument and post-hearing briefs of the parties, the matter is appropriately before the Commission by its designated Hearing Examiner for determination.

Upon the entire record, the Hearing Examiner makes the following:

FINDINGS OF FACT

1. The Ridgefield Public Library is a public employer within the meaning of the Act, as amended, and is subject to its provisions.
2. The Ridgefield Library Association is a public employee representative within the meaning of the Act, as amended, and is subject to its provisions.
3. The Association entered into a first collective negotiations agreement with the Library on July 2, 1981, which covered a collective negotiations unit of all permanent full-time and part-time professional and non-professional employees with the exception of the Library Director and pages (CP-1). The agreement was effective during the term January 1, 1981 through December 31, 1982. The agreement remained in full force and effect during its term and thereafter during the course of negotiations for a successor agreement. An amendment to the salary Article was made on November 17, 1982 (CP-19).^{4/}

^{4/} Article XI, Salaries, originally provided that the Children's Librarian would be paid at the rate of \$14,190 for the year 1981 and \$15,609 for the year 1982. An employee, Joan DiSpagna, was hired in September 1981 as a Children's Librarian with a starting salary of \$13,000 instead of \$14,190. A grievance was successfully processed and DiSpagna's salary was adjusted upward to \$14,190. The amendment of November 17, 1982 modified the salary range for 1982 to \$11,000-\$13,000 (CP-19, supra).

4. Lauren Johnson was hired by the Library as a Page on June 2, 1979 and continued in that position until March 21, 1983. She was, therefore, not covered by the collective negotiations agreement, which excluded Pages, supra. Effective March 21, 1983 Johnson became a Junior Library Clerk, part-time, and should have been paid at the rate of \$5.15 per hour on and after March 21, 1983 (CP-6). Instead, she continued to be paid at the rate she was paid as Page, namely, \$3.35 per hour. Unlike DiSpagna, Johnson refused to file a grievance and the Association did not file a grievance on her behalf.

5. Bernice Ranieri is a Senior Library Clerk and has been an employee of the Library for five years. She was instrumental in founding the Association in 1980 and has held the position of Secretary and Head Negotiator for the Association. In 1982 she was Head Negotiator.

6. Patricia Knox is a Junior Library Clerk and has been an employee of the Library for five years. She became active in the Association in 1981 and has served as Assistant Negotiator and has been the President of the Association since January 1983.

7. Betty C. Schacher was the Acting Director of the Library on April 1, 1982 and on that date told Ranieri that she, Ranieri, "better watch it" and that the Library felt that Ranieri was "too strong." Schacher also told Ranieri that she was "personally responsible for their (the Library's) trouble," referring to the DiSpagna grievance, supra.

8. On December 15, 1982 Schacher, who was then Director, discharged Ranieri for insubordination. When Ranieri would not accept the fact of discharge and refused to leave the premises, Schacher summoned the police. Thereafter Ranieri filed a grievance through her attorney (CP-20). Following a hearing before the Board of Trustees of the Library on January 24, 1983 Ranieri was amicably reinstated, effective February 14, 1983 (R-1).

9. Samuel S. Saporito has been a Custodian at the Library since January 1981. He was a member of the Association until his resignation on July 12, 1983. He has served as Secretary-Treasurer of the Association and from February 1982 until his resignation

he was the Association's Head Negotiator for the 1983 successor agreement.

10. The Library's budget for the calendar year 1983 was approximately \$150,000.00. As early as March 21, 1983 it was apparent that the Library would have to expend \$5,800 for emergency repairs to its furnace, notwithstanding that the expenditure exceeded the budget (CP-14). This expenditure was authorized at that time.

11. At the meeting of the Library Board of Trustees on May 23, 1983 the President, Mildred Fleming, noted that due to budgetary restrictions the Board had to choose between the alternatives of cutting a staff position or cutting staff hours to part-time (CP-2). The decision of the Board was to reduce hours of clerical staff to no less than the 20-hour minimum which permitted clerical staff to receive full benefits.

12. Thereafter, effective June 15, 1983, the hours of certain clerical personnel were reduced as follows:

Marie Boyle: Bookkeeper - Secretary (P/T) - 27 to 24 hours per week

Ellie Marcopul: Junior Library Clerk (P/T) - 22 to 20 hours per week

Lauren Johnson: Junior Library Clerk (P/T) - 24 to 20 hours per week

Patricia Knox: Junior Library Clerk (F/T) - 35 to 24 hours per week

Bernice Ranieri: Senior Library Clerk (F/T) - 35 to 24 hours per week (CP-13)

* * * *

The hours of the following employees and titles were not reduced:

Lawrence Janesky: Reference Librarian

Roberta Rogow: Children's Librarian

Samuel S. Saporito: Custodian

13. In the negotiations for the 1983 successor agreement the parties had agreed on a 6% across-the-board increase and certain other provisions as reflected in a Library-drafted document dated June 30, 1983 (CP-18). In late May 1983, during the negotiations, Frank Pellino, a Library negotiator and member of the Board of Trustees, admittedly stated to the Association's negotiators, Knox and Saporito,

"What contract, that's all over." Pellino stated that he meant that the negotiations were over when in fact they were not.^{5/} The Hearing Examiner credits the testimony of Knox that several days later Pellino also said to Knox and Saporito, "What Association, there's only the two of you."

14. After Saporito resigned from the Association on July 12, 1983 (CP-9) he undertook to enlist employee support for the filing of a decertification petition with the Commission. Such a petition was signed by Saporito and docketed with the Commission on July 26, 1983 (RD-84-1; CP-10). Janesky also undertook a like filing although his was never docketed with the Commission (CP-12). The Charging Party failed to prove by a preponderance of the evidence that Schacher or Fleming played any role, or provided any assistance to Saporito or Janesky, in the preparation and filing of a decertification petition with the Commission.

15. The Charging Party also failed to prove by a preponderance of the evidence that the Library attempted to interfere with the existence or administration of the Association by having allegedly informed employees that they were "management" and were, therefore, not eligible to become members of the Association.

16. The Charging Party has also failed to prove by a preponderance of the evidence that the Library told Knox that she must use all of her sick leave before the end of 1983, and that Raneiri and Knox have been refused floating holidays and compensatory time off by Schacher unlike other employees in the unit.

THE ISSUE

Did the Respondent Library independently violate Subsection(a)(1) of the Act and, further, did the Respondent Library violate Subsection(a)(3) by its conduct herein?^{6/}

^{5/} Further indication that the negotiations had not been concluded is evidenced by a Notice of Impasse form, which Knox filed with the Commission under date of July 19, 1983 (CP-11).

^{6/} The Hearing Examiner finds and concludes that the Charging Party has failed to prove by a preponderance of the evidence that the Respondent Library violated Subsections(a)(2) and (5) of the Act by its conduct herein. Thus, dismissal of these allegations will be recommended.

DISCUSSION AND ANALYSISThe Respondent Library Independently
Violated Subsection(a)(1) Of The Act
By The Conduct Of Pellino

An independent violation of Subsection(a)(1) of the Act occurs when an employer engages in activities which, regardless of the absence of direct proof of anti-union animus, tend to interfere with, restrain or coerce an employee or employees in the exercise of the rights guaranteed to them by the Act, provided that the actions taken by the employer also lack a legitimate and substantial business justification: New Jersey Sports and Exposition Authority, P.E.R.C. No. 80-73, 5 NJPER 550, 551 (1979).

On April 1, 1982 Schacher, as Acting Director of the Library, stated to Ranieri that Ranieri had "better watch it," that the Board felt that the Ranieri was "too strong" and that the Board was holding Ranieri "personally responsible" for the Library's "trouble," referring to the DiSpagna grievance. The Library, through Schacher as its agent, engaged in unlawful conduct under Subsection(a)(1), there being no legitimate business justification for such statements. Of course, the Hearing Examiner can make no finding of a violation of the Act based upon these statements inasmuch as such a finding is time-barred under Section 5.4(a) of the Act. However, it may be considered as background for a subsequent timely alleged violation of the Act: Local 1424, IAM v. NLRB (Bryan Mfg. Co.), 362 U.S. 411, 45 LRRM 3212 (1960).

Turning now to the statements by Pellino in May 1983 to Knox and Saporito, the Hearing Examiner finds and concludes that the Respondent Library violated the Act when Trustee Frank Pellino stated first, "What contract, that's all over" and several days later, "What Association, there's only the two of you." The clear import of these statements to Knox and Saporito was to interfere with and restrain Knox and Saporito in discharging their functions as Association negotiators by conveying that, insofar as Pellino was concerned, the negotiations were over, when in fact they were not, and to undermine the Association by indicating that its strength was only two-fold.

Given the prior statements to Ranieri by Schacher, supra, as background, the

Hearing Examiner has no difficulty in concluding that the two statements by Pellino were violative of the Act, there being no business justification.

The Respondent Library Did Not Violate
Subsection(a)(3) Of The Act By The Manner
In Which It Reduced The Hours Of Its Clerical
Employees In June 1983

The principal complainants on behalf of the Association in this proceeding are Knox and Ranieri. Knox testified that she would not have filed the instant Unfair Practice Charge if it had not been for the reduction in hours as to herself and Ranieri (4 Tr. 42). Thus, the Hearing Examiner deals with the Subsection(a)(3) allegations in the context of the reduction in hours as to Knox and Ranieri.

Assuming that Knox and Ranieri have satisfied the "substantial" or "motivating" factor test in East Orange Public Library v. Taliaferro, 180 N.J. Super. 155 (1981), the Hearing Examiner finds and concludes that the Respondent Library has come forward with a legitimate business justification in reducing the hours of its clerical staff to not less than 20 hours per week. As found above, the Library had a budget shortfall due to emergency furnace repairs. Admittedly, as full-time employees, Knox and Ranieri suffered the greatest reduction proportionately. However, when all of the clerical employees are looked at as a group they have all been working approximately the same number of hours since June 15, 1983. The Hearing Examiner can attach no weight to the fact that the two professional librarians were retained as full-time employees with no hours reduction. In the case of Saporito, it should be noted that he, who was active for the Association, did not suffer an hours reduction.

The Hearing Examiner cites as authority for his decision that Subsection(a)(3) of the Act has not been violated the Commission's decision in Ocean County College, P.E.R.C. No. 82-122, 8 NJPER 372 (1982) where the Commission found no violation in the case of a reduction in hours of 50%. The evidence there established that the change was as a result of the elimination of Federal funds for the employee's position and not for union activity.

* * * *

Upon the foregoing, and upon the entire record in this case, the Hearing Examiner makes the following:

CONCLUSIONS OF LAW


1. The Respondent Library independently violated N.J.S.A. 34:13A-5.4(a)(1) by the statements of Trustee member Frank Pellino in May 1983.
2. The Respondent Library did not violate N.J.S.A. 34:13A-5.4(a)(3) when it reduced the hours of certain of its clerical employees on June 15, 1983 due to budget consideration, namely, the emergency repair of a furnace.

RECOMMENDED ORDER

The Hearing Examiner recommends that the Commission ORDER:

- A. That the Respondent Library cease and desist from:
 1. Interfering with, restraining or coercing its employees in the exercise of the rights guaranteed to them by the Act, particularly, by refraining from making statements to employees which undermine ongoing collective negotiations or undermine the status or standing of the Ridgefield Library Association.
- B. That the Respondent Library take the following affirmative action:
 1. Post in all places where notices to employees are customarily posted, copies of the attached notice marked as Appendix "A." Copies of such notice, on forms provided by the Commission shall be posted immediately upon receipt thereof and, after being signed by the Respondent's authorized representative, shall be maintained by it for a period of at least sixty (60) consecutive days thereafter. Reasonable steps shall be taken by the Respondent Library to insure that such notices are not altered, defaced or covered by other materials.
 2. Notify the Chairman of the Commission within twenty (20) days of receipt what steps the Respondent Library has taken to comply herewith.

C. That the Subsection(a)(2), (a)(3) and (a)(5) allegations in the Complaint be dismissed in their entirety.



Alan R. Howe
Hearing Examiner

Dated: January 20, 1984
Trenton, New Jersey

NOTICE TO ALL EMPLOYEES

PURSUANT TO

AN ORDER OF THE

PUBLIC EMPLOYMENT RELATIONS COMMISSION

and in order to effectuate the policies of the

NEW JERSEY EMPLOYER-EMPLOYEE RELATIONS ACT,

AS AMENDED

We hereby notify our employees that:

WE WILL NOT interfere with, restrain or coerce our employees in the exercise of the rights guaranteed to them by the Act, particularly, by refraining from making statements to employees which undermine ongoing collective negotiations or undermine the status or standing of the Ridgefield Library Association.

RIDGEFIELD PUBLIC LIBRARY

(Public Employer)

Dated _____

By _____ (Title)

This Notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

If employees have any question concerning this Notice or compliance with its provisions, they may communicate directly with Jeffrey B. Tener, Chairman, Public Employment Relations Commission, P.O. Box 2209, Trenton, New Jersey 08625 Telephone (609) 292-6780