

P.E.R.C. NO. 97-143

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF HADDONFIELD and
TEAMSTERS LOCAL UNION NO. 676,

Respondents,

-and-

Docket No. CI-97-30

CARROLL E. GERKEY,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission sustains a refusal to issue a Complaint on an unfair practice charge filed by Carroll E. Gerkey against the Borough of Haddonfield and Teamsters Local Union No. 676. The charge alleges that the employer wrongfully terminated Gerkey and that the union mislead him about his right to initiate arbitration and his right to appeal to the Teamsters International Union. The Commission finds that the allegations against the employer were untimely and that nothing in the charge, amendment or affidavit alleges that the union's conduct was arbitrary, discriminatory, or taken in bad faith. Accordingly, there is no allegation that the union breached its duty of fair representation.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

P.E.R.C. NO. 97-143

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF HADDONFIELD and
TEAMSTERS LOCAL UNION NO. 676,

Respondents,

-and-

Docket No. CI-97-30

CARROLL E. GERKEY,

Charging Party.

Appearances:

For the Charging Party, Carroll E. Gerkey, pro se

DECISION AND ORDER

On November 7 and December 6 1996, Carroll E. Gerkey filed an unfair practice charge and amended charge against the Borough of Haddonfield and Teamsters Local Union No. 676. The charge, as amended, alleges that on December 28, 1995, the employer wrongfully terminated Gerkey and that on June 25, 1996, the union mislead him about his right to initiate arbitration and his right to appeal to the Teamsters International Union.

On December 31, 1996, the Director of Unfair Practices refused to issue a Complaint. D.U.P. No. 97-29, 23 NJPER 102 (¶28051 1996). He found that the allegations against the employer were untimely and that there were no facts alleged showing union conduct that was arbitrary, discriminatory or taken in bad faith. The Director found that the union executive board had reviewed

Gerkey's request that it arbitrate his grievance, but had declined to pursue arbitration because it determined it would not prevail.


On January 21, 1997, the charging party appealed. He asks us to consider an affidavit indicating that he surrendered his right to appeal the union's decision to the membership and/or the International Union. The affidavit further indicates that the union's president told Gerkey that the union had no objection if Gerkey arbitrated the grievance on his own.

Nothing in the charge, amendment or affidavit alleges that the union's conduct was arbitrary, discriminatory, or taken in bad faith. Accordingly, there is no allegation that the union breached its duty of fair representation and we will sustain the refusal to issue a Complaint. Belen v. Woodbridge Tp. Bd. of Ed. and Woodbridge Fed. of Teachers, 142 N.J. Super. 486 (App. Div. 1976), citing Vaca v. Sipes, 386 U.S. 171 (1967).

ORDER

The refusal to issue a Complaint is sustained.

BY ORDER OF THE COMMISSION


Millicent A. Wasell
Chair

Chair Wasell, Commissioners Buchanan, Finn, Klagholz and Wenzler voted in favor of this decision. None opposed. Commissioners Boose and Ricci were not present.

DATED: June 19, 1997
Trenton, New Jersey
ISSUED: June 20, 1997