

P.E.R.C. NO. 2001-65

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

UNIVERSITY OF MEDICINE AND
DENTISTRY OF NEW JERSEY,

Respondent,

-and-

Docket No. CO-H-97-397

CWA, LOCAL 1031, AFL-CIO,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission finds that the University of Medicine and Dentistry of New Jersey violated the New Jersey Employer-Employee Relations Act when it demoted the president of CWA, Local 1031, AFL-CIO, in retaliation for his protected activity. The Commission concludes that even if the demotion was based on both lawful and unlawful motives, UMDNJ has not shown that it would have demoted the employee even absent the protected activity.

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.

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Appearances:

For the Respondent, John J. Farmer, Jr., Attorney General
(Michael J. Gonnella, Deputy Attorney General)

For the Charging Party, Weissman & Mintz,
attorneys (Mark Rosenbaum, on the brief)

DECISION

On May 28, 1997 and February 8, 1998, CWA, Local 1031, AFL-CIO (CWA), filed an unfair practice charge and amended charge against the University of Medicine and Dentistry of New Jersey (UMDNJ), alleging that UMDNJ violated 5.4a(1), (2), (3) and (7) of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq.^{1/} CWA contends that UMDNJ retaliated against Local 1031

^{1/} These provisions 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

president John Rose and unit member Richard Gromek for their protected activity by threatening and reassigning Rose; denying him the right to attend negotiations sessions and membership meetings; requiring him to obtain permission for protected activity; charging him with falsifying documents; and ultimately demoting Rose and terminating Gromek.

On December 18, 1997 and March 10, 1998, a Complaint and amended Complaint issued. On April 8, 1998, UMDNJ filed an Answer. It maintained that Rose's reassignment was the result of a campus-wide reorganization; that Rose was never denied permission to attend union meetings; and that he was demoted and Gromek terminated because of poor job performance. It also alleged that the challenge to the reassignment was time-barred.

On April 16, 1998, CWA withdrew that portion of the charge relating to Gromek. Gromek's termination was arbitrated.

On October 26 and 28, December 7, 1998, and January 25 and 26, 1999, Hearing Examiner Elizabeth J. McGoldrick conducted a hearing. The parties examined witnesses and introduced exhibits.

1/ Footnote Continued From Previous Page

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. (7) Violating any of the rules and regulations established by the commission."

CWA withdrew the allegation that Rose's reassignment was motivated by anti-union animus (4T25-4T26).

On April 14 and 15, 1999, UMDNJ and CWA filed post-hearing briefs. On April 21, UMDNJ moved to reopen the record to admit an arbitration award ordering that Gromek be reinstated to a non-supervisory position; the award had been issued on April 12. CWA opposed the motion. On May 3 and June 25, UMDNJ and CWA filed reply briefs. On April 27, 2000, the Hearing Examiner denied the motion to reopen the record.

On December 22, 2000, the Hearing Examiner recommended that we find that UMDNJ violated 5.4a(1) and (3) by demoting Rose in retaliation for his union activities. H.E. No. 2001-15, 27 NJPER 80 (¶32032 2000). She found that Frank Watts, Director of Physical Plant, showed hostility toward Rose's CWA activity by advising him that he should be selective about union activity; admonishing him that his first priority should be his supervisory responsibilities; and indicating that Rose was not a team player. She also concluded that UMDNJ set unreasonable productivity goals for Rose and found to be pretextual the stated reason for Rose's demotion -- Rose's posting of a disciplinary notice that reprimanded him for not meeting those goals. She recommended that we dismiss the 5.4a(2) and (7) portions of the charge. 27 NJPER at 86-87.

On January 17, 2001, UMDNJ filed exceptions. It contends that the Hearing Examiner erred in concluding that Rose's demotion

was motivated by anti-union animus and objects to her crediting of aspects of Rose's testimony. It also argues that preclusive effect must be given to factual findings in the arbitration award involving Gromek.

CWA urges adoption of the Hearing Examiner's recommendations and moves to strike the UMDNJ exception that pertains to the arbitration award.

We start with a chronology. We incorporate the Hearing Examiner's findings of fact, as supplemented here.

Facts

From 1984 until May 1995, John Rose was employed by UMDNJ in non-supervisory maintenance, craft or construction positions and was active in the union representing those employees. In May 1995, he was promoted to maintenance and construction supervisor and assigned to University Hospital. Soon after, he became a shop steward for the supervisors' unit. We add to finding no. 1 that from approximately July 1995 through July 1996, Watts was Rose's direct supervisor (5T6-5T7). For January 1995 through January 1996, Watts rated Rose a "4": "performance frequently exceeds standards. No shortcomings exist; goals are always met" (5T9).

We also add that, in July 1996, Watts was promoted to Assistant Director of Physical Plant and Robert Gallt became Rose's direct supervisor (1T147; 5T7). In November 1996, the physical plant department was reorganized into eight zones. Watts assigned Rose to Zone 1, the Medical Science Building and Dental

School, because it was a high-profile assignment and Rose had the potential to be one of the better supervisors. 27 NJPER at 80. For the January 1996 to January 1997 period, Gallt rated Rose a "4" (5T11). From 1995 through 1997, many hospital administrators, including Watts, commended Rose's work.

During 1996, Rose was on the negotiating team for the 1996-1999 contract between UMDNJ and Local 1031. The contract was executed on January 31, 1997. We add to finding no. 2 that negotiations began in August or September 1996 (2T124-2T125). Rose considered himself "aggressive" in those negotiations. 27 NJPER at 81. We modify finding no. 2 to state that Rose was elected president of the Newark branch of Local 1031 in October or November 1996 (2T125)." 27 NJPER at 81. After he became president, Rose's responsibilities increased and he spent time at Local 1031's office and attended grievance and other hearings and CWA monthly executive meetings.

On February 5, 1997, Watts approved Gallt's 1996-1997 evaluation of Rose (5T11). On February 12, Rose attended a labor-management committee meeting on behalf of CWA. Watts was also at the meeting, where Rose and other employee representatives raised several concerns about the physical plant department. 27 NJPER at 81. We add to finding no. 3 that one of the issues raised was that the chargeback unit in the physical plant department was understaffed (2T134; 3T15).

On February 20, 1997, Watts sent Rose a memo (CP-1), advising him that union representatives were contractually

required to give management reasonable notice of requests to post union notices or attend grievance, negotiations or other scheduled meetings. Watts continued that Rose "must be selective with the amount of union activity," given his responsibilities for the medical science and dental school buildings. Watts stated that he should be notified of all of Rose's "approved requests[s] for union business. No union activity should be conducted prior to my knowledge." Watts also advised Rose he had to provide "focused leadership." We add to finding no. 3 that prior to CP-1, Gallt had approved Rose's requests for union leave without apprising Watts (1T148). After CP-1, Gallt continued to approve Rose's requests for vacation or sick leave without informing Watts (1T149).

Watts issued CP-1 after an emergency occurred and Watts was unable to reach any of his supervisors, because they were at a lunchtime union meeting. Lunchtime membership meetings are scheduled from 11:30 a.m. until 2:00 p.m. so that supervisors can "drop in" for brief periods. While members do not stay for the entire 2.5 hour meeting, we add to finding no. 3 that Rose would sometimes do so, in which case he would take vacation or holiday time (3T60). We also add to finding no. 3 that Watts explained that he wanted to clarify that while union activity was sanctioned, it was not a priority (5T54).

Rose spoke to Watts shortly after receiving CP-1. We add to finding no. 3 that, during the conversation, Rose asserted that a laid-off supervisor had bumping rights, and also spoke to Watts

about CP-1 itself and the February 12 meeting (2T132). According to Rose, Watts told him that his union activity could affect his evaluation. Watts denied saying so, but the Hearing Examiner credited Rose's belief that Watts made the statement sometime during early 1997. 27 NJPER at 87.

On March 5, 1997, CWA representative Kathleen Hernandez-Barnett sent Watts a memorandum about the February 1997 labor-management meeting and CP-1. In his March 17 reply, Watts criticized her "spurious accusations" about his hiring practices and stated that it was his responsibility to be aware of "any and all union activities." He continued that when Rose was reminded of his responsibility to inform Watts of all union activity, it was incumbent upon him to "react as a member of my team." He denied harassing Rose; noted that he had supported Rose; and observed that Rose, as a first-line supervisor and union officer, was responsible both for performing his union duties and maintaining his zone. He stated that the physical plant would pursue its goal of excellence; would not "tolerate aspersion" of the department; and would not be "intimidated into acquiescing to CWA requests under duress." Rose and the other supervisors were sent copies of CP-25.

We add to finding no. 1, that on the same day he sent his reply to Hernandez-Barnett, Watts issued a memorandum to all physical plant supervisors advising them of reassignments and zone adjustments (R-14). Among other changes, Rose's "Zone 1" was

absorbed by zones 2 and 3 and placed under Paul Crawford's management.

Watts's March 17 memorandum also noted that the chargeback unit, which performs all construction and renovation work, had been operating shorthanded although work was on the upswing (R-14). Rose was transferred to chargeback as supervisor, where he became responsible for performing cost estimates and supervising a multi-craft construction crew. Watts assigned Rose to chargeback because of his performance and because he had managed a construction company (5T23; 5T102).

Prior to Rose's transfer, no supervisor had been assigned to the unit (5T23). Gromek was assistant supervisor of chargeback, having been "bumped down" from supervisor as a result of a layoff in the summer of 1996. Gromek was a Local 1031 member, but was not active in the union.

Gallt was also assigned to do cost estimates for the chargeback unit on a part-time basis (1T152). That unit was under Paul Crawford's supervision so he became Rose's direct supervisor.

In April 1997, Rose was assigned to schedule a crew to paint parking lots. Crawford directed him to assign Hispanic employees to one lot and African-Americans to another. Rose reported this directive to the Affirmative Action Office, which counseled Crawford that such assignments were inappropriate. That office also arranged for the entire physical plant staff to attend sensitivity training. 27 NJPER at 82.

At an April 21, 1997 meeting of supervisors, Watts informed attendees about the sensitivity training (5T27). Rose testified that Watts also commented that Rose was not a team player because he had made the report. While Watts denied making that comment, the Hearing Examiner credited Rose's testimony and concluded that Watts did not feel Rose was a team player because of Rose's protected activities. 27 NJPER at 82.

At the same meeting, Watts directed Gromek and Rose to "purge" a backlog of "single craft" work orders. That assignment required telephoning or visiting 130 customers to determine if they still needed work done. Rose was given until May 1, 1997 to carry out this directive. On May 6, Watts wrote both Rose and Gromek a memorandum (CP-28) stating that they had "disregarded a direct order." The memoranda branded their actions as "totally unacceptable" and warned that "any repeat of this type of behavior will result in disciplinary action up to and including termination" (CP-28). 27 NJPER at 82-83.

Watts, who stated that Rose had been a good and very hard worker, never had any problem with Rose's performance until the incident described in CP-28. Watts recalled that Rose's performance began to "slip" around the time of CP-28; he speculated that Rose might have had difficulties with time management because of his involvement in other activities -- a phrase the Hearing Examiner interpreted to mean union activities. 27 NJPER at 83, 87 n.9. At another point, Watts commented that

Rose's performance began to deteriorate in February 1997 -- a statement the Hearing Examiner found to be inconsistent with Watts's representation that Rose was transferred to chargeback based on his prior (good) performance. 27 NJPER at 83. In addition, Watts stated that Rose became hostile and aggressive around the time that CP-28 was issued. We add to finding no. 5 that Watts later clarified that "belligerent" was the best term to describe Rose's attitude (6T25).

On May 13, 1997, Crawford reprimanded Rose for not scheduling workers for a Friday morning assignment on a construction project (CP-26). Until then, work on the project had been performed only at night, so as not to disrupt patient services. The Hearing Examiner concluded that a misunderstanding caused Rose's inaction. He was advised that another infraction would result in suspension or termination. 27 NJPER at 83-84.

On July 18, 1997, Crawford directed Rose, Gromek, and three others to complete ten multi-craft estimates per week. On July 23, Rose and Gromek wrote to Crawford expressing concern that they could not meet those goals given their other assignments. On July 28, Crawford responded that his order stood. Rose, Gromek and the rest of the unit met their goals and the multi-craft backlog decreased. However, the single-craft backlog did not. Accordingly, on September 16, Crawford directed Rose and Gromek to turn in ten single-craft estimates per day or fifty per week. We add to finding no. 7 that Gallt was directed to submit five estimates because he worked part-time for the unit (CP-32).

On September 26, 1997, Rose and Gromek again wrote to Crawford and stated that the goals could not be met given staffing levels, employee illnesses, and their other assignments (CP-33). On October 15, Hernandez-Barnett met with the UMDNJ Labor Relations Director to discuss chargeback unit issues raised by Rose. A follow-up memorandum identified concerns about low staffing levels; abusive management; constant shifting of priorities; and staff fears that they would be disciplined if they used the union to discuss problems.

We add to finding no. 7 that Rose, Gromek and Gallt could not complete the goals set forth in Crawford's September 21 memorandum. On October 21, 1997, each of them received a "written warning in lieu of a three-day suspension" for poor job performance (2T17-2T19). Rose's letter also mentioned two instances where he allegedly did not follow timekeeping procedures with respect to employees he supervised. We also add that, for three of the five weeks measured by management, Rose and Gromek submitted the same number of estimates (3T44). However, since estimates differ in complexity, that circumstance does not signify that they performed an identical amount of work (3T74-3T75). Rose denied "conspiring" with Gromek to turn in a minimal number of estimates. Gromek did not testify (3T33).

Upon receiving the October 21 notice, Rose highlighted portions of it and posted it on a bulletin board above the photocopier in his and Gromek's office, which is accessible to

other supervisors at UMDNJ and craft employees. Rose regularly highlighted and posted notices to remind himself of his responsibilities. Gromek posted his notice alongside Rose's.

On October 24, 1997, Crawford demoted Rose to his former non-supervisory position of Mechanical Systems I Mechanic. In a memorandum issued on that date, Crawford wrote that Rose was a first-line supervisor and the first line of management in the department, and that the postings by him and Gromek were "deliberate acts of retaliation and defiance," and intentional efforts to provoke management (CP-36). Crawford also stated that Rose had not submitted the required number of estimates for the week, despite the warning a few days earlier. The memorandum continued that, while the posting was grounds for dismissal, Rose was being demoted because of his length of service.

Gromek was terminated for posting his disciplinary notice. 27 NJPER at 85-86. We add to finding no. 7 that Watts explained that Gromek was fired rather than demoted because he had been hired as a supervisor and no craft position was available (5T37).

CWA's Motion to Strike UMDNJ's Exception

UMDNJ excepts to the Hearing Examiner's decision not to admit the Gromek arbitration award, arguing that certain arbitral findings had to be given preclusive effect. CWA moves to strike that part of UMDNJ's exceptions, along with the award attached as an exhibit. It maintains that exceptions must be based on the

record and the award was not admitted. It also suggests that, to avoid prejudice, the Chair should decide the motion.

We deny CWA's motion. N.J.A.C. 19:14-4.6(a) contemplates that the full Commission, not the Chair alone, will review a Hearing Examiner's ruling on a motion. The arbitration award was appropriately submitted to us in connection with the challenge to the Hearing Examiner's decision not to admit it.

UMDNJ's Exception to Hearing Examiner's Ruling
on Admissibility of Arbitration Award

The Hearing Examiner declined to reopen the record to admit the Gromek award, reasoning that the award was not "inherently relevant" because Rose was not a grievant and the issues in the arbitration and unfair practice proceedings were different. UMDNJ argues that she was required to admit the award and to give preclusive effect to two findings. We disagree.

The award was not issued until after the hearing closed and all evidence had been submitted. In this posture, we would be inclined to affirm the Hearing Examiner's discretionary decision not to reopen the record, regardless of the merits of UMDNJ's arguments had the award been available earlier. In any case, the award did not adjudge the legal rights of Rose, the only employee implicated in the Complaint. Compare Thornton v. Potamkin Chevrolet, 94 N.J. 1, 8 (1983) (grievance awards involving litigants in civil rights suits should be admitted in Division of Civil Rights proceedings and given appropriate weight depending on articulated factors).

Even if the award had been admitted, the arbitrator's findings would not have been entitled to preclusive effect. Where a charge alleges retaliation for engaging in protected activity, section 5.4c precludes deferral to arbitration. Jefferson Tp. Bd. of Ed. v. Jefferson Tp. Ed. Ass'n, 188 N.J. Super. 411, 414-415 (App. Div. 1982); cf. Thornton (arbitration awards are not binding on the Division of Civil Rights given the Division's mandate to vindicate the public interest in enforcing the NJLAD; the agency's sensitivity to deciding such statutory claims as opposed to the arbitrator's focus on contract rights; and the lack of equivalency between arbitration vs. agency adjudications). Further, collateral estoppel or issue preclusion will not be applied where a finding was not essential to the determination or where the party opposing preclusion could not as a matter of law have obtained review of the judgment in the initial action. See Restatement (Second) of Judgments, §27, §28(1) (1982). The Gromek award did not address Rose's legal rights and the findings made were not essential to a determination of whether there was just cause for Gromek's termination or to the subsidiary issues of Gromek's intent in posting his own reprimand or the reason he did not meet productivity goals. Further, the arbitrator ultimately concluded that Gromek's termination was without just cause so CWA could not have appealed the arbitrator's rulings on the posting and productivity issues, even with respect to Gromek, unless it moved to vacate the award because of the remedy ordered by the

arbitrator. For all these reasons, we affirm the Hearing Examiner's decision not to reopen the record.

Exceptions to Hearing Examiner's Report

In concluding that UMDNJ violated 5.4a(1) and (3) by demoting Rose, the Hearing Examiner applied the standards established in In re Bridgewater Tp., 95 N.J. 235 (1984). That is, no violation will be found unless the charging party has proved, by a preponderance of the evidence on the entire record, that protected conduct was a substantial or motivating factor in the adverse action. This may be done by direct or circumstantial evidence showing that: (1) the employee engaged in activity protected by the Act; (2) the employer knew of the activity; and (3) the employer was hostile toward the activity.

If the employer does not present evidence of a motive not illegal under the Act, or if its explanation has been rejected as pretextual, there is sufficient basis for finding a violation without further analysis. Where the record demonstrates that both motives unlawful under our Act and other motives contributed to a personnel action, the employer will not have violated the Act if it can prove, by a preponderance of the evidence on the entire record, that the adverse action would have taken place absent the protected conduct. Id. at 242.

The Hearing Examiner found that the reason offered for Rose's demotion was pretextual and that the weight of the evidence did not support UMDNJ's claimed business justification. 27 NJPER at 87. Her analysis rested on several factual underpinnings;

first, that Rose had an exemplary work record until May 1997; second, that his involvement in union activities increased in late 1996 and 1997, when he became involved in negotiations and was elected president of Local 1031's Newark branch; third, that Watts and Crawford were hostile to that activity, particularly as evidenced by Watts's February and March 1997 memoranda to Rose and Hernandez-Barnett (CP-1 and CP-25); and fourth, that Watts and Crawford set unreachable productivity goals and refused to adjust them.

In concluding that Rose was demoted in retaliation for his CWA activity, the Hearing Examiner gave weight to the severity of the reprimand Rose received for not eliminating a work backlog shortly after he was assigned to the unit (CP-28); the severity of Crawford's May 1997 reprimand of Rose for an incident that resulted from a misunderstanding (CP-26); and the severity of the sanction imposed on Rose for posting his reprimand vis-a-vis the punishment received by other supervisors for more serious infractions. She also found that Rose's attitude and demeanor did not change after he was transferred to chargeback, but that Watts began to perceive him as belligerent because of his protected activity. Noting that "timing of an action can be indicative of motive," she also found it significant that CP-1 and CP-25 were issued soon after Rose's protected activity increased. 27 NJPER at 86-87.

UMDNJ does not challenge the Hearing Examiner's conclusions about the unreasonable work goals; the severity of

Rose's punishment (demotion); or Rose's employment record before May 1997. It does argue that the Hearing Examiner erred in inferring hostility towards protected activity from CP-1 and CP-25. It also maintains that the Hearing Examiner should have considered that Rose had been active in Local 1031 since 1995, yet was favorably treated until 1997. Finally, it alleges that the Hearing Examiner inappropriately relied on Rose's beliefs or feelings. Based on these exceptions, it maintains that the record does not establish that Rose's demotion was illegally motivated.

The Hearing Examiner's analysis is supported by the record. CP-1 did not simply advise Rose to adhere to contract requirements about notice of union meetings. CP-1 also advised that Rose had to be "selective about his union activity" and stated that "[n]o union activity should be conducted prior to my knowledge." Those comments trenched on Rose's right to engage in union activity during lunches or breaks and also directed a limit on the amount of that activity, regardless of when it occurred. Compare Downe Tp., P.E.R.C. No. 86-66, 12 NJPER 3 (¶17002 1985) (directive that employee "should refrain from participating in union activities during her regular work day" violated 5.4a(1)). Moreover, CP-1 distinguished union leave from all other approved leaves, of which only Gallt, Rose's direct supervisor at the time, had to be apprised. That circumstance indicates a hostility to

union functions, not simply a reminder that Rose must meet contract requirements for meetings. ^{2/}

Similarly, CP-25, Watts's memorandum to Hernandez-Barnett stated that Rose was obligated to respond as a team member to CP-1; reiterated Watt's view that he had to be aware of all union activities; angrily referred to CWA's inquiries about the status of personnel matters; and stated that he would not "tolerate aspersion" of his department or be coerced by CWA. While noting Rose's responsibilities as a union officer, Watts referred twice to Rose's status as a "first-line supervisor for management" and copied all other supervisors.

This memorandum went beyond legitimate criticism of an employee representative's conduct. Black Horse Pike Reg. Bd. of Ed., P.E.R.C. No. 82-19, 7 NJPER 502 (¶12223 1981). It indicates hostility toward Rose's protected activity by criticizing his and CWA's response to Watts's inappropriate directive that he be selective about union activity and by suggesting discomfort with Rose's dual role as a supervisor and union president. See Willingboro Bd. of Ed., P.E.R.C. No. 98-113, 24 NJPER 171 (¶29085 1998), aff'd 25 NJPER 322 (¶30138 App. Div. 1995) (board members' belief that union officers could never "switch hats" illegally

^{2/} We accord less weight than did the Hearing Examiner to the fact that the other supervisors did not receive a similar memorandum. Given Watts's assumption that the contract notification requirements pertained, he could reasonably expect notification from Rose as a union official.

motivated their decision not to promote union officer to supervisory position).

The Hearing Examiner also reasonably found that the timing of CP-1 and CP-25 indicated hostility towards protected activity. While UMDNJ managers may not have been hostile to Rose's initial activities as a Local 1031 steward or president, the Hearing Examiner reasonably inferred that the angry tone of CP-1 and CP-25 were triggered in part by the intensification of Rose's union activities in late 1996 or early 1997 and his criticisms of the physical plant department -- including understaffing in chargeback -- at the labor-management committee meeting in February 1997. CP-1 was issued soon after that meeting and CP-25 stated that Watts would not tolerate aspersion of that department.

Finally, UMDNJ argues that the Hearing Examiner inappropriately credited, as probative evidence, Rose's "beliefs" that Watts had told him his union activity could affect his evaluation and that Watts did not consider him a team player; and Rose's "feeling" that Watts was picking on him because he made a report to the Affirmative Action office. We see no basis to disturb the Hearing Examiner's conclusions.

The Hearing Examiner reported Rose's testimony that Watts had told him that his union activity could affect his evaluation; noted that Watts denied making the statement; and observed that, on cross-examination, Rose could not pinpoint the date of the conversation. However, she then "credit[ed] Rose's belief that Watts made this comment at some point during the early months of 1997." 27 NJPER at 81, 87 n.5. This credibility determination implicitly finds that Watts made the statement in question.

UMDNJ also contends that the Hearing Examiner erred in crediting Rose's "feeling" that Watts did not believe he was a team player. However, she found that Watts did not feel that Rose was a team player, based on CP-1; CP-25; and Rose's testimony about the affirmative action incident. 27 NJPER at 82. That conclusion is supported by Watts's own use of the phrase in CP-25 where Watts implied that Rose did not act as a "team player" when he received CP-1. Further, the Hearing Examiner found that Watts told Rose he was not a team player after he had reported Crawford to the affirmative action office. 27 NJPER at 87. On the same day he made that remark, Watts issued an unreasonable order to purge a backlog of 130 work orders within only 10 days.

For the foregoing reasons, we reject UMDNJ's exceptions. Viewed as a whole, we conclude that the asserted reason for the demotion was pretextual.

The record shows that, in late 1996, Rose was viewed as an exemplary employee with excellent evaluations and many

commendations -- someone whom Watts thought would be promoted through the organization (5T95). After Rose became Local 1031 president and criticized the physical plant department in a labor-management committee meeting, Rose and CWA were warned, in strong terms, that Rose had to be selective about his union activity. During the March-October 1997 period, Rose and CWA pressed their concerns about the physical plant department to Watts and the UMDNJ Labor Relations Department; Rose reported Crawford to Affirmative Action and spoke with Watts about a supervisor's bumping rights; and Rose and Gromek complained to Crawford about unreasonable work goals.

Watts viewed Rose as belligerent and, after his transfer to an understaffed unit, Rose was severely reprimanded for not meeting what the Hearing Examiner found, and UMDNJ does not now dispute, were unreasonable work goals. While Rose's demotion was precipitated by the posting incident, not lack of productivity per se, the two are linked because work goals were the subject of the posted reprimand and the memorandum demoting him also admonished him for not meeting those goals.^{3/} In this posture, the record

^{3/} Although we do not decide the question, the posting may have constituted protected activity to the extent it sought to "discuss" workload issues with other supervisors. See K-Mart Corp., 29 NLRB No. 80, 132 LRRM 1292 (1989) (employee discussion of work schedules is protected); Martin-Marietta Corp., 293 NLRB No. 89, 131 LRRM 1714 (1989) (notice posting protected where it invited discussion about outbreak of

shows that Watts' reason asserted for Rose's demotion was pretextual. Compare Ewing Bd. of Ed., P.E.R.C. No. 91-77, 17 NJPER 162 (¶22067 1991) (union president's non-renewal was motivated by his union activism where a change in his evaluation rating coincided with an intensification of a labor-management dispute and his manager acknowledged her relationship with the president had deteriorated because of his union activities).

The Hearing Examiner analyzed this as a pretext rather than a dual motive case. 27 NJPER at 87. Even if we were to conclude that Rose's demotion was based on both lawful and unlawful motives, UMDNJ has not shown that it would have demoted Rose absent the protected activity. Supervisors who had committed such infractions as assaulting a colleague; endangering a patient by not performing a lab test; operating a vehicle without a license; and favoring a subordinate with whom the supervisor had a business relationship received discipline short of demotion. 27 NJPER at 86; 1T39-1T44).^{4/}

3/ Footnote Continued From Previous Page.

illness in workplace and was prompted by a discussion with another employee). And even if the posting was seen by craft employees, we question whether it constituted "indefensibly disloyal" conduct. See Hardin, The Developing Labor Law, 137 (3d ed. 1992).

4/ While Gromek was terminated, he also engaged in protected activity by, together with Rose, presenting his views to Crawford concerning working conditions in chargeback.

For all these reasons, we hold that UMDNJ violated 5.4a(1) and (3) and we order Rose reinstated to his supervisory position. We also order that he receive back pay and interest from the date he was demoted. While UMDNJ argues that interest should not be awarded, its reliance on N.J.S.A. 59:13-8 is inapt. N.J.S.A. 59:13-8 bars prejudgment interest on contract claims against the State or a State agency, and does not pertain to backpay awards in connection with an employer's violation of the Act. An award of interest is necessary to make Rose whole for the unfair practice. Compare Salem Cty. Voc. Ed. Bd., NJPER Supp.2d 82 (163 App. Div. 1980). Finally, we dismiss the 5.4a(2) and (7) allegations.

ORDER

The University of Medicine and Dentistry of the State of New Jersey is ordered to:

A. Cease and desist from:

1. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by the Act, particularly by demoting Supervisor of Maintenance and Construction John Rose in retaliation for Rose's CWA activities.

2. Discriminating in regard to the tenure of employment to discourage employees in the exercise of the rights guaranteed to them by the Act, particularly by demoting Supervisor of Maintenance and Construction John Rose in retaliation for Rose's CWA activities.

B. Take the following action:

1. Rescind the demotion of John Rose to Mechanic and restore him to the position of Supervisor of Maintenance and Construction.

2. Expunge the disciplinary charges related to the demotion from his personnel file.

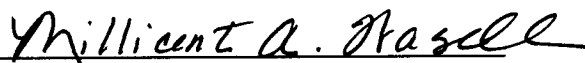
3. Make Rose whole for any monies and fringe benefits lost by reason of his demotion on October 24, 1997, plus interest pursuant to R. 4:42-11(a) for each year.

4. Post in all places where notices to employees are customarily posted, copies of the attached notice marked as Appendix "A." Copies of such notice shall, after being signed by the Respondent's authorized representative, be posted immediately and maintained by it for at least sixty (60) consecutive days. Reasonable steps shall be taken to ensure that such notices are not altered, defaced or covered by other materials.

5. Notify the Chair of the Commission within twenty (20) days of receipt what steps the Respondent has taken to comply with this order.

All other allegations in the Complaint are dismissed.

BY ORDER OF THE COMMISSION


Millicent A. Wasell
Chair

Chair Wasell, Commissioners Buchanan, Madonna, McGlynn, Muscato, Ricci and Sandman all voted in favor of this decision. None opposed.

DATED: April 26, 2001
Trenton, New Jersey

ISSUED: April 27, 2001



**NOTICE TO 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 cease and desist from interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by the Act, particularly by demoting Supervisor of Maintenance and Construction John Rose in retaliation for his CWA activities.

WE WILL cease and desist from 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 the Act, particularly by demoting Supervisor of Maintenance and Construction John Rose in retaliation for his CWA activities.

WE WILL rescind the demotion of John Rose to Mechanic and restore him to the position of Supervisor of Maintenance and Construction.

WE WILL expunge the disciplinary charges related to the demotion from his personnel file.

WE WILL MAKE John Rose whole for any monies and fringe benefits lost by reason of his demotion on October 24, 1997, plus interest pursuant to *R. 4:42-11(a)* for each year.

Docket No. CO-H-97-397

**UNIVERSITY OF MEDICINE AND
DENTISTRY OF NEW JERSEY**
(Public Employer)

Date: _____

By: _____

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 the Public Employment Relations Commission, 495 West State Street, P.O. Box 429, Trenton, NJ 08625-0429 (609) 984-7372

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

In the Matter of

UNIVERSITY OF MEDICINE AND
DENTISTRY OF NEW JERSEY,

Respondent,

-and-

Docket No. CO-H-97-397

CWA, LOCAL 1031, AFL-CIO,

Charging Party.

SYNOPSIS

A Hearing Examiner recommends that the Commission find that the University of Medicine and Dentistry of New Jersey violated 5.4a(1) and (3) of the New Jersey Public Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. when it demoted Supervisor of Maintenance and Construction John Rose to mechanic. The Hearing Examiner found that the University was hostile to Rose's union activity, and that its proffered business justification for imposing discipline on him was pretext.

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. If no exceptions are filed, the recommended decision shall become a final decision unless the Chair or such other Commission designee notifies the parties within 45 days after receipt of the recommended decision that the Commission will consider the matter further.

STATE OF NEW JERSEY
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CWA, LOCAL 1031, AFL-CIO,

Charging Party.

Appearances:

For the Respondent, John J. Farmer, Jr., Attorney General
(Bindi S. Chandarana, Deputy Attorney General)

For the Charging Party, Weissman & Mintz, attorneys
(Mark Rosenbaum, of counsel)

HEARING EXAMINER'S REPORT
AND RECOMMENDED DECISION

On May 28, 1997, CWA, Local 1031, AFL-CIO (CWA), filed an unfair practice charge which was amended on February 9, 1998, with the New Jersey Public Employment Relations Commission alleging that the University of Medicine and Dentistry of New Jersey (UMDNJ) violated the New Jersey Employer-Employee Relations Act, specifically N.J.S.A. 34:13A-5.4a(1), (2), (3) and (7).^{1/} The

^{1/} These provisions 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

original charge alleged that UMDNJ retaliated against employee John Rose for exercising his rights under the Act. The charge alleged that UMDNJ threatened him, reassigned him, denied him the right to attend negotiation sessions and membership meetings, required him to obtain permission before engaging in protected activity, charged him with falsifying documents and reprimanded him for engaging in protected activity.

The amended charge alleged that on or about October 24, 1997, Rose was removed from his supervisory position and employee Richard Gromek was terminated in retaliation for exercising protected activity.

On December 18, 1997, a complaint was issued on the original charge. On March 10, 1998, I amended the complaint to include the amended charge. By letter of April 9, 1998, UMDNJ filed an answer, denying that it violated the Act.^{2/} UMDNJ specifically denied that it refused Rose's requests to attend negotiations sessions or membership meetings and asserted that

1/ Footnote Continued From Previous Page

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, and (7) Violating any of the rules and regulations established by the commission."

2/ It relied on its January 12, 1998 position statement as its answer to the original charge, and its February 18, 1998 position statement as its answer to the amended charge.

disciplinary warnings against him were based upon his poor job performance. It asserted that the reassignment from the hospital to zone 1 resulted from a reorganization; and it denied that Rose needed permission to participate in protected activity. In its amended answer, it again denied violating the Act, arguing that certain allegations were untimely, and that Rose was demoted and Gromek terminated because of their unsatisfactory work performance.^{3/} Hearings were held on October 26, 28, and December 7, 1998, and January 25 and 26, 1999.^{4/}

On April 14 and 15, 1999, UMDNJ and the CWA, respectively, filed their post-hearing briefs. On April 21, 1999, UMDNJ moved to reopen the record to admit an arbitrator's award regarding Gromek. CWA opposed the Motion. On May 3 and June 25, 1999, UMDNJ and the CWA, respectively, filed their reply briefs in this matter which did not address the motion to reopen the record. On April 27, 2000, I denied UMDNJ's motion to reopen, and did not accept the arbitrator's award into the record.

^{3/} On April 16, 1998, CWA withdrew that part of its amended charge regarding Richard Gromek. At the hearing on October 26, the parties stipulated that the Gromek allegation had been withdrawn (1T5).

^{4/} The transcripts shall be referred to as 1T (October 26), 2T (October 28), 3T (December 7), 4T (first half of January 25), 5T (second half of January 25) and 6T (January 26).

Based upon the entire record, I make the following:

FINDINGS OF FACT

1. John Rose has been employed by UMDNJ in maintenance, craft or construction positions since 1984 (2T64). Prior to May 1995, he held non-supervisory positions and was active in his union (1T23). In May 1995, Rose was promoted to supervisor, maintenance and construction, and assigned to University Hospital (2T108). His duties there included in-house repairs, supervising construction and renovation projects, generating job estimates, scheduling workers and other related responsibilities (2T109-2T111).

In June-July 1996, maintenance and construction work for the hospital was taken over by the physical plant department which soon ceased performing renovation and construction projects. That work was assigned to the "Chargeback Unit" (2T110). The Chargeback Unit was created to handle alteration and renovation work for UMDNJ (1T134). It derived its name from the interdepartmental transfer of funds. An estimate would be made of the cost of the requested work. The cost of the work was charged to the department requesting the work which transferred the funds to the Chargeback Unit to pay for the work (2T112).

In October 1996, Rose was assigned to the Chargeback Unit for a short time. In early November 1996, UMDNJ implemented a reorganization of its maintenance/construction work and Rose was assigned to the Medical Science Building and Dental School in Zone 1 (R13; 2T108). Watts assigned Rose to Zone 1 "because he had the potential to be one of the better supervisors" (5T16, 5T18-5T19).

In March 1997, he was returned to the Chargeback Unit with the same supervisory title (2T109). Richard Gromek was the assistant supervisor (1T140). In October 1997, Rose was demoted to assistant mechanic one and Gromek was terminated (2T64).

As supervisor in the Chargeback Unit, Rose maintained an in-house construction crew and was responsible for major and minor renovations throughout UMDNJ facilities. He had 25 employees under his authority. He met with clients who wanted work done, prepared written job estimates of the requested work, ordered all materials, scheduled work crews, decided employee leave requests, and supervised the renovations (2T110-2T111, 2T145-2T146).

2. Rose became active with CWA as a shop steward shortly after his promotion to supervisor, and was elected president of the Newark branch of CWA's Local 1031 in late 1995 or early 1996 (2T122). He was on the negotiations committee leading to J-1, the 1996-1999 collective agreement which was executed on January 31, 1997 (2T123-2T125). Rose considered himself "aggressive" during those negotiations (2T125). Nevertheless, during 1995 and 1996, Rose received good evaluations and several commendations complimenting him on his work (CP-5, CP-9 thru CP-21).

After becoming branch president of Local 1031, Rose's union responsibilities increased. He attended monthly CWA executive board meetings, spent time at the Local's office in Monmouth Junction, attended grievance and other hearings for unit members, and attended labor-management meetings (2T126, 2T129).

Rose's assistant, Richard Gromek, was a CWA unit member but was not active in the union (2T51-2T52).

3. On February 12, 1997, Rose attended a labor-management meeting on behalf of CWA. Assistant Director of Physical Plant Frank Watts, one of Rose's superiors, attended the meeting for UMDNJ. Rose and other employee representatives raised several concerns about the physical plant at that meeting (2T131).

Sometime in early 1997, an emergency occurred for which Watts attempted to contact one of the maintenance supervisors by radio. They were at a lunchtime union meeting about which Watts had not been informed. On February 20, 1997, Watts sent Rose the following memorandum (CP-1):

As per the agreement between the University of Medicine and Dentistry of New Jersey and Communications Workers of America, AFL-CIO Local 1031, . . . : any request to represent a staff member, investigate a grievance (max. 1hr), post union notice, attend negotiating meetings or attend scheduled meetings with University shall be done by requesting permission from management. We should be given reasonable notification whenever you request permission for these activities.

Considering that you are responsible for both the Medical Science Building and Dental School, you must be selective with the amount of union activity you are involved with.

I am requesting that I be notified of all of your approved request for union business. No union activity should be conducted prior to my knowledge.

Physical Plant's mission to provide safe, comfortable physical conditions for staff, faculty, students, patients and visitors while maintaining all physical facilities, requires

focused leadership. It is your responsibility to maintain this standard.

The contractual language referred to in CP-1 is the following pertinent part of J-2, Section 3.05 (the 1994-1996 collective agreement):

The University agrees that during working hours, on its premises and without loss of base pay, or when otherwise agreed upon, Union representatives previously designated and authorized to represent the Union and recognized by the University shall be allowed to:

- a) Represent a staff member in the department/work unit.
- b) Investigate a grievance, providing such investigation time will be limited to a maximum of one (1) hour and further provided there is no interruption of work activities. In emergency situations, these time limitations may be extended if approved by the Office of Human Resources or the supervisor on duty should the Office of Human Resources be closed.
- c) Post Union notices.
- d) Attend negotiating meetings (the number of representatives to be agreed upon between the Union and the University) if designated as a member of the negotiating team scheduled to attend by the Union.
- e) Attend scheduled meetings with the University.

The authorized Union representative shall provide reasonable notification to his/her manager or immediate supervisor whenever he requests permission to transact such Union business. Permission will not be unreasonably withheld. It is further understood that the manager or immediate supervisor of the authorized Union representatives has the right to seek rescheduling of appointments when the work situation warrants this.

Rose spoke to Watts shortly after receiving CP-1. The conversation concerned issues raised in the labor-management meeting on February 12, and the impact of CP-1 (2T132-2T134). Rose said that Watts told him that his role with the union could affect his evaluation and his career at the University (2T132, 2T136). Rose further characterized the conversation as follows:

A. Mr. Watts always referred to [me] as a team player. And in that conversation right there, either I had to be a team player--in other words, I wore two hats, but I couldn't wear two hats as far as Frank was concerned. I couldn't wear a hat as a supervisor and a team player and also being [sic] a union official. He wouldn't accept that fact that I could be both. [2T135].

Watts denied telling Rose that his union activity could affect his performance evaluation (5T7).^{5/}

Watts knew Rose was a union president when CP-1 was issued and he wanted Rose to inform him of such meetings in the future (5T17-5T18, 6T16). Although Watts referred to section 3.05 of the parties' agreement, and believed the employees had not followed the proper procedure by getting permission prior to attending the meeting, he did not frame the issue in CP-1 as one of contract violation, he framed it as a reminder to Rose about what Rose's

^{5/} On direct examination Rose stated that the remark was made in a parking lot after receiving CP-1, but on cross examination Rose did not recall Watts' having said anything about union activity affecting his evaluation "at that time." (3T12-3T13). I do credit Rose's belief that Watts made this comment at some point during the early months of 1997.

priorities were (or should be) (CP-1, 5T51).^{6/} Watts issued CP-1 to give Rose a "heads up" to allow him to do his job and "not get in a jam." (3T52). Watts believed that Rose's priority was as an employee of the University (5T51), and he (Watts) explained what he meant about how Rose should be "selective" about how much union activity he engaged in. Watts testified:

I want him to realize his main responsibility to the University of Medicine and Dentistry. In this case, the Department of Physical Plant. And he needed to be selective in the decisions he made and how they affect his customers and his duties in the Physical Plant. [5T54-5T55].

I infer that Watts was hostile towards Rose's protected activity. He allegedly issued CP-1 because of a concern that he was unable to locate any supervisors, and that none of their managers could account for their whereabouts (5T17-5T18, 5T43). But Watts could not identify the specific emergency which caused him to personally try to contact any of four supervisors (Rose, Robinson, Amato and Gromek) and stated there were emergencies every day (5T42, 5T52-5T53). Despite the fact that there were three other employees "missing" on the day the emergency leading Watts to issue CP-1 arose, and Watts believed they also should have sought prior

^{6/} On cross examination of Rose, counsel for UMDNJ brought out the fact that section 3.05 does not appear to apply to the lunchtime meeting situation. None of its specific subsections (a through e) cover the holding of lunchtime, drop-in meetings. Drop-in means members come as they can for brief periods, but no one attends for the entire period from 11:30 a.m. to 2:00 p.m. (1T50-1T51, 3T22-3T24). Thus, Watts' reliance on section 3.05 appears misplaced.

permission to attend the lunchtime meeting, Watts chose to direct his admonitions to Rose personally, and to send copies to others.^{7/} I infer from this conduct that he intended to "publicly" discredit Rose to the other recipients. I infer there were veiled threats contained in CP-1: "you must be selective with the amount of union activity you are involved with." And, "It is your responsibility to maintain this standard," raises the question why the other supervisors who attended the meeting weren't also reminded of their responsibilities to maintain standards and admonished to keep their priorities straight. Based on all of the circumstances surrounding CP-1, including the heavy-handed and cautionary tone of the memo, I infer Watts' hostility towards Rose's protected activity. Up until this point, Watts had thought highly of Rose's abilities and work habits.

4. On March 17, 1997, Watts sent a letter to CWA staff representative Kathleen Hernandez-Barnett (CP-25), criticizing her statements in a prior memorandum, and commenting upon John Rose's union activity. Watts wrote:

I have read your March 5, 1997 memorandum that outlines your interpretation of the February 13, 1997 meeting with four of your members and UMD Management.

^{7/} Copies of CP-1 were sent to James Meeker, Director of Physical Plant; Robert Gallt, Rose's supervisor; Raafat Boles, Assistant Manager for Zones 6 & 7; Paul Crawford, Group Manager Maintenance & Construction; CWA Business Representative Kathleen Hernandez-Barnett and Walter Pino, Dept. of Human Resources at UMDNJ.

I must remind you, as I did in my prior memorandum, that your spurious accusations regarding Physical Plants hiring practices are way out of line.

It is my responsibility as Assistant Director of this department to be aware of any and all union activities. It is also the responsibility of the Supervisors of Physical Plant to assure their role as Physical Plant first line supervisors. When, John Rose is reminded of his responsibility to notify me of all union activity, it is incumbent of him to do so and to react as a member of my team.

It is also your responsibility to know who the players are, and who to direct your inquiries to. To ask me why Affirmative Action has taken so long to approve our candidate for Supervisor of Maintenance & Construction implies that you assume that I would know that answer. I suggest you direct that question to the Office of Affirmative Action.

It is also interesting that you should copy the Board of Concerned Citizens regarding our meeting.

Physical Plant will not be intimidated into acquiescing to CWA requests under duress.

CWA will not coerce this department with ominous remarks that attempt to besmirch Physical Plant's reputation. This department has worked long and hard to achieve our goals of pursuing excellence and will not tolerate aspersion of Physical Plant.

I will continue to evaluate this department and identify ways to improve our performance. Your memorandum says that some of my remarks will not bode well for our future working relationship. I suggest you stick to the agreement between CWA and the University. I will do the same.

In closing, John Rose works for me, it is his responsibility to maintain his zone, and as a officer of CWA to perform his union duties. However, when he is performing as a supervisor, he is performing as a first line supervisor for management. He is expected to keep the interest of this department in the forefront of his

activities. John Rose has received my support in the past. Both his and CWA's arbitrary claim that I am harassing him is incongruous and inappropriate.

I remain adamant that Physical Plant achieve its mission to provide safe and comfortable physical conditions for all staff, faculty, students, patients, and visitors while maintaining all the physical facilities in sound operating order. I expect my staff to do the same.

Rose and the other supervisors, maintenance and construction were sent copies of CP-25 (2T142). From that letter Rose inferred he had to restrict his union duties or he might be punished (2T143-2T144). This letter also demonstrates Watts' animus and goes beyond mere criticism of Barnett and Rose. Rose was justified in inferring that CP-25 was threatening.

In early April of 1997, Rose was assigned to arrange for the painting of certain parking lots. His immediate supervisor, Paul Crawford, directed him to assign Afro-American employees to one lot and Hispanic employees to another (2T137-2T138). Rose thought it was discriminatory to make such an assignment and he reported the incident to an affirmative action officer at UMDNJ (1T129, 2T138).^{8/} Rose testified that at a supervisors meeting on April 21, 1997, Rose said Watts referred to him (Rose) as not being a team player because he went to affirmative action (2T144). Watts testified that he did not know who had complained to affirmative

^{8/} Crawford admitted to Affirmative Action Manager Darnel Reamer that he had ordered the separation of employees along race/ethnic lines and he was counselled that such assignments were inappropriate (1T128-1T130).

action and he denied making any comment about Rose not being a team player (5T28).

Based upon CP-1, CP-25 and the affirmative action incident, Rose believed Watts was picking on him due to the exercise of his protected activity (2T127-2T144). I credit Rose's testimony and conclude that Watts did not feel Rose was a team player because of Rose's protected activities.

5. By April 1997, the backlog of single craft project estimates in the charge back unit was increasing. Rose had only been reassigned there for two months (R-14, 5T21-5T23). There were fewer charge back unit employees to clear up the backlog due in part to a reduction in force the previous year (1T90-1T91). Watts set specific productivity goals in a meeting on April 21, 1997 (CP-28). On May 6, 1997, Watts sent a memorandum to Rose and Gromek (CP-28) criticizing them for failing to purge 130 calls for single craft projects. Purging involves telephoning or visiting with all 130 customers to determine whether the job in question is still needed (2T163, 5T29). CP-28 provided in pertinent part:

On April 21, 1997, both of you were present at the monthly supervisor's meeting. During that meeting you were directed to purge any single craft projects that were no longer valid from the system (see attached agenda). This task was to be done prior to the April Monthly Report, which was due on May 1, 1997.

After reviewing Bob Gallt's monthly activities report for April 1997, I observed that the single craft projects that were supposed to be purged were still in the system. I asked Bob Gallt if either of you had given him any closeouts, and he replied that the only alterations to the single

craft numbers were done after he revised his information. In short, both of you disregarded a direct order and failed to supply me with the management information I requested.

This is totally unacceptable. I do not hold meetings and assign tasks without a reason. I expect that this information will be purged by May 23, 1997, in time for the next report period.

In conclusion, any repeat of this type of behavior will result in a disciplinary action up to and including termination.

Even though the backlog was high, the reorganization was still fairly recent and being fine-tuned (5T26), and Rose had only been there for two months, Watts set less than a two week time limit on the assignment to close out these single craft estimates (5T29, CP-28). Watts testified that prior to CP-28 (May 6, 1997), he did not recall having any trouble with Rose's performance (5T92). In fact, he said Rose was a hard worker, put in his time and didn't have an attendance problem (5T93). On February 5, 1997, Watts approved Gallt's good evaluation of Rose (CP-6). But Watts said that Rose's performance had begun to slip and he was becoming more "aggressive" which led to CP-28 (5T100). Watts testified that this aggressiveness was the beginning of the alleged collusion between Rose and Gromek (5T100).

Watts explained that he did not see the change in Rose immediately, that it was not until he started hearing about the "changes" (5T94-5T98). When Watts was asked on cross-examination about "what changes took place," he said:

As was reported to me what started taking place is that he [Rose] wasn't available at certain times when he was looked for.

The facility managers,...called me with concerns about the work not being done.

I think...John's problem was time management, initially, and it might have eroded as he became involved with more activities, you know, in all honesty. [5T95].^{9/}

Watts claimed he tried to speak to Rose about his behavior around the time CP-28 issued, but Rose became openly hostile toward him (5T101). Upon cross-examination Watts testified that Rose became belligerent and aggressive after CP-1 was issued on February 20, 1997, yet Watts had assigned him to the Chargeback Unit in March 1997 and earlier testified that he could not recall having any trouble with Rose's performance prior to May 6, 1997 (3T13, 5T92, 6T24-6T28, R-14). Consequently, I find that Rose was not hostile or belligerent but that Watts was reacting more to Rose's protected activity rather than his performance.

6. On or about May 1997, Rose and a contract project engineer, Douglas Rand, were involved in the renovation of three clinic areas near the hospital. During the daytime, the movement of doctors and patients through the clinics prohibited construction projects and so most of the work occurred at night (6T35-6T36, 6T38). Typically, Rose met with Rand and Group Manager Crawford about the craftsmen needed on each shift. Because employees

^{9/} I infer that Watts statement "when he was looked for" refers to the times Rose was attending union meetings, and the language "he became involved with more activities" referred to Rose's exercise of protected activities. Therefore, I find the "change" Watts referred to was Rose's protected activity.

generally work daytime hours, but not evenings, Rand would issue written instructions to Rose about the night work requirements (6T48-6T50). Rose was responsible for scheduling the employees (6T40). Rand was informed at some point prior to May 9, 1997, that one of the clinic areas would be available for daytime work on May 9 (6T38). On Thursday, May 8, 1997, Rand gave Rose written instructions on which employees were needed for a night crew project that evening (CP-42, 6T47-6T49), but did not give Rose written instructions on which, if any, employees were needed the morning of Friday, May 9 (6T48-6T49). Rose had never failed to assign employees when given written instructions (6T51). Rand testified that he held a short meeting with Crawford and Rose to let them know they had access to one of the clinic rooms the following day and to tell them what craft persons were needed (6T40). Not having received written instructions for assignments on the morning of May 9, Rose did not schedule a crew. Rand testified that he gave Rose both the written instructions for Thursday night (May 8, CP-42), and oral instructions for working on Friday morning, but that he did not give the oral instructions at the same time he gave Rose CP-42 (6T48-6T49). Rand could not be sure when he gave oral instructions but thought there could be no misunderstanding (6T49-6T50). Based on this testimony, I believe that it was likely that there was a misunderstanding as to the scheduling requirements for May 9th, and thus, no one was scheduled. Rand stated he held a meeting with Rose and Crawford and gave oral instructions. Crawford did not testify.

It was unusual to have access to the areas during the day. The project had only involved night and weekend work up until then (6T39). On May 13, 1997, Rose received the following warning notice (CP-26) from Paul Crawford:

On May 8, 1997, I gave you an assignment to supply four Painters, two Carpenters and two Electricians to Doug Rand on Friday morning, May 9, 1997. They should have continued to work through Friday. You were also told that the same number of men should continue working Saturday morning through Saturday afternoon until Unit #7 was completed. I visited the area at 9:10 a.m. and there were no craftsmen on the job. I immediately called you on the radio to find out where the scheduled manpower for the project were. Your reply to me was, "you thought the men were scheduled to work on Friday night only and Saturday. You also had a meeting with Doug Rand on Thursday, May 8, 1997, and you both confirmed that the men would be on the project Friday morning working through Saturday. John, you know how important this project was, you have sat in on almost every meeting regarding this project. You also should know the importance of this project as a supervisor. I feel you did not follow through with your end of the responsibility. Your action of not carrying out your assignment is totally unacceptable and will not be tolerated. Any other infraction of this nature will result in the next disciplinary step of suspension and/or termination.

Crawford's writing does not corroborate Rand's version of the meetings and orders. He appears to indicate that he was not present at the meeting where Rand gave oral instructions, and it appears he believed he directed Rose to supply workers to Rand on Friday morning, May 9, 1997. Based on the testimony, and the tone of CP-26 (the threat that the most severe punishment available, termination, could be the next step) I find that CP-26 is evidence of animus.

7. As a result of a backlog in the Chargeback Unit, a large number of projects needed estimates (2T167). On July 23, 1997, Crawford sent a memorandum (CP-29) to Rose, Gromek and three others directing them to complete ten estimates each per week. These were not single craft projects. They were major projects requiring extensive renovation (2T168). Rose believed that given his normal duties in the Chargeback Unit, it would be nearly impossible for him to comply with Crawford's memo (2T169, 2T170). Those duties included fixed daily responsibilities such as: recordkeeping, data entry, ordering materials, assigning mechanics, reviewing the progress of jobs, preparing timesheets and time cards, responding to radio and telephone communications, and attending meetings (1T156). Included in those duties was the requirement to answer all the telephone and radio calls from Watts and Crawford. At times, Watts and Crawford were calling Rose and/or Gromek several times a day, sometimes every 15 minutes (1T158-1T160, 3T128, 3T142-3T143, 3T152). Those communications from Crawford and Watts often interrupted Rose's work schedules forcing him to do more record keeping and delaying his other work (1T158-1T161).

Rose's responsibility over the chargeback crew included scheduling his staff on various projects. But Rose testified that Crawford began to interfere with his duties and disrupting his schedules by moving and reshuffling his staff, and telling him not to start projects until he (Crawford) gave the authorization (2T186). Rose claimed that Crawford contradicted his own prior

instruction by issuing a memorandum on August 28, 1997 (CP-34) directing him, Gromek and Gallt (Plant Engineer) to schedule and start projects without waiting for his approval (2T186).

On July 28, 1997, as a result of the increase in their assignments, Rose and Gromek responded to CP-29 with their own memorandum to Crawford detailing all of their regular duties and responsibilities and explaining why the additional estimates assignment was too burdensome (CP-30). Crawford responded on August 5, 1997 denying Rose and Gromek's request to compromise on the quotas: "There will be no exceptions." (CP-31). He noted that if they could not perform all of their responsibilities "other options" would be considered (CP-31).

Since Crawford did not approve of any exceptions in CP-31, Rose met his quota of ten project estimates per week but could not keep up with the single craft estimates. Crawford wanted him to do fifty single craft estimates per week (2T176), and issued that directive in a memorandum on September 16, 1997 (CP-32).

Rose responded to CP-32 by memorandum dated September 26, 1997 (CP-33). He referred to his own July 28th memorandum CP-30, and advised Crawford that due to absences and reassignments he and Gromek could not reach Crawford's goal.

On October 15, 1997, Local 1031 Staff Representative Kathleen Hernandez-Barnett met with UMDNJ Director of Labor Relations, Howard Pripas to discuss issues raised by Rose regarding the Chargeback Unit. Barnett memorialized the discussion in her

letter of October 27, 1997 to Pripas and UMDNJ Vice President (for physical plant) Celia Abalos (CP-2). That letter provides:

On Wednesday, October 15, 1997, CWA met with both of you to discuss several issues within Physical Plant. Here are the points that were made:

Staffing Levels:

Chargeback was previously staffed with five (5) supervisors; one (1) Supervisor of Maintenance and Construction, one (1) Assistant Supervisor Maintenance and Construction, and three (3) Planner/Schedulers.

Currently there are one (1) Supervisor and one (1) Assistant Supervisor of Maintenance and Construction.

Chargeback hired a Planner/Scheduler, who is being paid from the Chargeback account, but not working in Chargeback.

Chargeback is run differently then a few years ago. There are now Zones, which means there are limited amount of men to handle the workload.

There are twenty-five (25) men to handle three hundred (300) open work orders.

The men were instructed to perform ten (10) multi-craft estimates a week and fifty (50) single craft estimates each week (memos enclosed).

The men responded with a written memo as well as a verbal explanation as to why these duties would be difficult to achieve (enclosed).

The jobs that the supervisors schedule are constantly rearranged by management, making scheduling difficult.

Majority of jobs say: "Rush" and there are problems regarding documentation and communications with the sub-contracted Maintenance and Construction Supervisors.

Management is abusive and accusatory.

Communication is almost non-existent existent.

The men are told: "Rush", "No excuses"....

Tape recordings of management stating: "I hate these freakin' guys."

Statements like: "I'm the head nigger in charge".

Supervisors out on stress related illnesses, specifically in the Chargeback Zone (Mr. Gromek and Mr. Thier).

Accusatory statements instead of questions.
(Example: man who was not assigned to a job, requested vacation leave, signed proper paper work, then stated he was sent home.)

With respect to the staff (Operating Engineers) absenteeism is on the rise, comments like: "I'm going to get a gun" or "I'm going to go postal" have been heard, men are keying the radio when managers are speaking (Keying means blocking transmission), men are unhappy about the camera, men are often coerced into overtime in non-emergency situations...

The morale is extremely low.

CWA stated more than once that the workers feared they will be terminated or disciplined as a result of the above stated problems. It appears that each time they utilize the Union to try to discuss the problems, they are disciplined. This is harassment and a [sic] Unfair Labor Practice (ULP). Mr. Gromek and Mr. Rose have been suspended for three (3) days within a week of our Labor-Management meeting. Their suspensions state that termination may occur in the future for additional poor performance.

It is CWA's understanding that the both of you will meet with Ms. Kavanaugh regarding our meeting. We sincerely hope that change will occur as a result of your meeting. Currently, CWA is proceeding with the Unfair Practice Charges regarding Mr. Rose, we are requesting a report from Affirmative Action regarding the practices and comments in Physical Plant, and we are filing grievances regarding the disciplinary

actions taken against Mr. Gromek and Mr. Rose. It is within your power to institute change and hopefully settle many of these issues amicably. Thank you for your attention to these matters.

Neither Rose nor Gromek could do all the estimates Crawford required and still do all of their other work. On October 21, 1997, Crawford issued an unsatisfactory job performance memorandum to Rose (CP-35), and Gromek (R-16) for failing to complete fifty single craft project estimates per week. The memoranda were written warnings in lieu of three-day suspensions. CP-35 provided in pertinent part:

The results of your efforts in this assignment are completely unacceptable. In the four weeks following the assignment, you were required to complete 170 estimates. You actually turned in only 29 estimates. In other words, you spent a total of less than five hours over the past four weeks to complete your assignment. This type of job performance will not be tolerated. You have already proved that you are capable of doing the assigned work when you completed your required multi-craft estimates assigned to you in June. In addition, your job assignment was eased with the elimination of the multi-craft responsibility. Your reaction to this reduction in responsibility was to do fewer estimates rather than more estimates.

This blatant inattention to duty was further illustrated when you failed to submit a "Request for Time Off" slip for two of your workers. The Manager of Maintenance and Records had no knowledge that you had approved time off until after that time was taken. You had been counseled by the timekeeper to turn in the request on the day of approval. This is standard procedure. To further compound your inattention to duty, you failed to assure that a direct report punch out his time-card after he had punched in. You were warned that all of your staff were to punch both in and out without exception. These are violations of both UMDNJ

and the Physical Plant Department rules and practices.

As a result of your unsatisfactory job performance, you are hereby issued this written warning in lieu of a three day suspension. Any reoccurrence of poor job performance will result in further disciplinary action up to and including termination.

R-16 contained the same first and third paragraphs.

Rose notified Local 1031 staff representative Kathleen Hernandez-Barnett that he had received CP-35, then he and Gromek highlighted their notices and posted them on bulletin boards in their office to remind themselves of their obligation to do the estimates (2T193-2T196). Rose regularly highlighted and posted such notices on his bulletin board or office walls to remind himself of his more urgent responsibilities (2T194-2T196, 3T78-3T79, 3T82, 3T118). That office was also used by other supervisors and crafts employees (5T32). Watts claimed that Rose's action posting CP-35 was egregious, and was a concerted and deliberate act to undermine management which warranted Rose's discipline (6T10).

Gromek was terminated over hanging R-16. On October 24, 1997, Crawford demoted Rose to his former non-supervisory position of Mechanical Systems I Mechanic (CP-36). Crawford wrote,

On Wednesday, October 22, 1997, I issued both of you and Rich Gromek a written warning in lieu of a three day suspension for unsatisfactory performance.

On Thursday, October 23, 1997, I observed that both you and Mr. Gromek had posted your disciplinary memorandums side by side on a bulletin board in full view of your staff, coworkers and public. Your highlighting of the

subject matter and of my determination in those memorandums was an obvious attempt to draw attention to the documents.

On Friday, October 24, 1997, notwithstanding the written warning issued on October 22, 1997, for unsatisfactory performance, you failed to provide an acceptable number of estimates. Your continual refusal to comply with your assignment is unacceptable.

You are a first line supervisor and the first line of management in this department. In these deliberate acts of retaliation and defiance, both you and Mr. Gromek intentionally sought to provoke your management. These blatant acts of defiant insubordination cannot and will not be tolerated. Your egregious actions clearly undermine the management of this institution.

This is grounds for immediate dismissal from the University. Taking into consideration the length of service you have attained at UMD, you are hereby demoted to your former position.

Effective immediately, you will resume your position as Mechanical Systems I Mechanic reporting to Zone 7 Supervisor, Gene Amato.

Watts said that posting CP-35 and R-16 was inappropriate because both Rose and Gromek were first line supervisors and their discipline should not have been made public because it could demoralize the Chargeback team (5T34).

Rose removed CP-35 from the bulletin board when he was asked to take it down (2T201, 5T87).

Based on all the above, I conclude that Crawford and Watts set up unattainable work goals for Rose and were unresponsive to his attempts to inform them about that fact. I credit Rose's testimony that Watts and/or Crawford were radioing Rose at too fast a pace, and interfering with his ability to complete assignments. They appeared to set him up to fail.

When in a relatively short period (from September 16 to October 27th) he did fail to meet UMDNJ's productivity goals, he received a reprimand in lieu of a three-day suspension.

Rose's posting of the notice of reprimand was not a deliberate act to undermine management. He testified credibly that it was his habit to post notices and informational memos on the walls immediately around his desk for his own uses, not to attract the attention of coworkers (2T194-2T196, 3T78-3T79, 3T80, 3T82, 3T100, 3T118).^{10/} Watts asserted that the posting was in public view. Watts testified:

Q.: ...Now could you describe what you mean by a public area?

A.: It was in the supervisor's office. However, the supervisor's office had a window in it. And the supervisor's office, also, if the door is propped in the open position, that's the first thing that you see. [5T35]

Watts later admitted it really was not an area open to the public (5T82-5T85).

CWA representative Hernandez-Barnett testified that this demotion was disproportionate to that meted out for other more serious infractions and was inconsistent with the University's progressive disciplinary system (1T40-1T44). For example, Supervisor Gary Pence was demoted for allegedly having kicked (ie., assaulted) another employee (1T44). A supervisor in the pathology

^{10/} Rose corroborated this testimony by providing photographic examples of where he posted notices around his desk (CP-41).

department was given a twenty-day suspension for failing to perform a lab test which could have harmed a patient, and he had first received three oral warnings (1T39-1T40). And another supervisor who had treated a subordinate favorably because they had an outside business relationship only received an oral warning (1T40).

ANALYSIS

The Alleged Violation of 5.4a(3) and (1)

The primary issue in this case is the a(3) allegation: whether Rose was demoted because of his exercise of protected activity. The standard for deciding a(3) cases was established by the New Jersey Supreme Court in In re Bridgewater Tp., 95 N.J. 235 (1984). There the Court held: "no violation will be found unless the charging party has proved, by a preponderance of the evidence on the entire record, that conduct protected by the Act was a substantial or motivating factor in the adverse action. This may be done by direct or circumstantial evidence showing 1) that the employee engaged in activity protected by the Act, 2) that the employer knew of this activity, and 3) that the employer was hostile toward the exercise of the protected activity." Id. at 246.

If the employer did not present evidence of a motive not illegal under our Act or if its explanation has been rejected as pretextual, there is sufficient basis for finding a violation without further analysis. Sometimes, however, the record demonstrates that both motives unlawful under our Act and other motives contributed to a personnel action. In these dual motive

cases, the employer will not have violated the Act if it can prove, by a preponderance of the evidence on the entire record, that the adverse action would have taken place absent the protected conduct. Id. at 242. This affirmative defense, however, need not be considered unless the charging party has proved, on the record as a whole, that anti-union animus was a motivating or substantial reason for the personnel action. Conflicting proofs concerning the employer's motives are for the hearing examiner, and then the Commission to resolve.

In its post-hearing brief, the Charging Party argues that UMDNJ's warning, suspension and demotion of Rose was based on union animus because of his active leadership on behalf of CWA. It contends that Rose's problems with management began after he became CWA branch president in late 1996, and that comments, memoranda and actions from Frank Watts and Paul Crawford were made in retaliation for Rose's exercise of protected activity. The Charging Party seeks Rose's reinstatement to the supervisor of maintenance and construction title, full back pay with interest, restoration of seniority and pension rights, and other standard relief.

UMDNJ argues that Rose's evaluations did not mention his union activity, that he was always permitted to attend union meetings, that Watts' letter requesting Rose to notify him when union business would be conducted was consistent with the parties' agreement, and that actions taken against Rose were based on legitimate business reasons. It seeks dismissal of the charge.

The record reveals that from late 1996 through all of 1997, John Rose was actively engaged in protected activity. He was a CWA shop steward and branch president, he served on CWA's negotiations team, attended negotiations and labor-management meetings. Frank Watts and Paul Crawford were aware of Rose's roles in CWA. In February 1997, Watts attended a labor-management meeting as a representative of UMDNJ, at which Rose raised issues about working conditions in the physical plant department. Watts was aware that Rose attended lunchtime meetings of CWA members.

I further found that Watts and Crawford were hostile toward Rose's protected activity. Watts thought highly of Rose's work habits and supervisory abilities until early 1997, when Rose became active in CWA. Watts' singled out Rose from a group of "missing" supervisors to admonish Rose about maintaining high standards and being selective about how much union activity he engaged in. Timing of an action can be indicative of motive. CP-1 was issued on February 20, 1997, within a week of a joint labor-management meeting at which complaints about conditions in physical plant were raised. On March 17, 1997, Watts sent a letter to CWA staff representative Kathleen Hernandez-Barnett (CP-25), criticizing her statements and further commenting upon John Rose's union activity. The angry language and circumstances attendant to CP-1 and CP-28, including timing, demonstrate Watts' hostility.

Watts' hostility was also borne out by his remarks that [Rose] was not a team player because he had reported Crawford to the

affirmative action office. I did not credit Watts' testimony that Rose had become belligerent but found that Watts was reacting more to Rose's protected activity rather than his performance. I believe that it was likely that there was a misunderstanding about the scheduling for the clinic renovation May 9, 1997 (Rand incident) and find that Crawford's threat to terminate Rose in CP-26 also evidenced animus.

Considering the severity of the punishment imposed on Rose (demotion) for posting a memo near his work station, I find that the weight of the evidence does not support the University's claimed business justification. Watts and Crawford set unreachable productivity goals and deadlines and were unresponsive to any attempt by Rose to adjust the goals or deadlines. They demanded quick action on a very large number of outstanding project estimates. They were inflexible, and when Rose failed to meet the goal, carried out their threat to discipline him. The notice of discipline included a reminder and warning that he meet the standard. When he posted the notice near his desk as a reminder about what the standards were, Watts and Crawford demoted him. In light of the foregoing, I find that the University's proffered reasons for the demotion of Rose were pretext.

The Alleged Violation of section 5.4a(2)

CWA also alleges that UMDNJ violated 5.4a(2) of the Act which prohibits public employers from "dominating, or interfering with the formation, existence or administration of any employee

organization." The type of activity prohibited by 5.4a(2) must be pervasive employer control or manipulation of the employee organization itself. North Brunswick Twp. Bd. Ed., P.E.R.C. No. 80-122, 6 NJPER 193, 194 (¶11095 1980). The record evidence does not support this allegation. Accordingly, I recommend that the 5.4a(2) allegation be dismissed.

Based upon the above findings and analysis, I make the following:

CONCLUSIONS OF LAW

1. The University of Medicine and Dentistry of the State of New Jersey violated 5.4a(1) and (3) of the Act by demoting Supervisor of Maintenance and Construction John Rose on October 24, 1997 in retaliation for Rose's union activities on behalf of CWA unit employees.

2. The University did not violate 5.4a(2) or (7) of the Act.

RECOMMENDED ORDER

I recommend the Commission ORDER:

A. That the University of Medicine and Dentistry of the State of New Jersey cease and desist from:

1. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by the Act, particularly by demoting Supervisor of Maintenance and Construction John Rose in retaliation for Rose's union activities on behalf of CWA unit employees.

2. Discriminating in regard to the tenure of employment to discourage employees in the exercise of the rights guaranteed to them by the Act, particularly by demoting Supervisor of Maintenance and Construction John Rose in retaliation for Rose's union activities on behalf of CWA unit employees.

B. That the University take the following action:

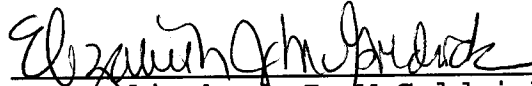
1. Rescind the demotion of John Rose to Mechanic and restore him to Supervisor of Maintenance and Construction and expunge the attendant disciplinary charges from his record.

2. Restore John Rose to his position as Supervisor Maintenance and Construction; make him whole for any monies and fringe benefits lost by reason of his demotion on October 24, 1997, plus interest pursuant to R.4:42-11(a) for each year.

3. Post in all places where notices to employees are customarily posted, copies of the attached notice marked as Appendix "A." Copies of such notice shall, after being signed by the Respondent's authorized representative, be posted immediately and maintained by it for at least sixty (60) consecutive days. Reasonable steps shall be taken to ensure that such notices are not altered, defaced or covered by other materials.

4. Notify the Chair of the Commission within twenty (20) days of receipt what steps the Respondent has taken to comply with this order.

C. That all other allegations in the charge, and amended charge be dismissed.



Elizabeth J. McGoldrick
Hearing Examiner

Dated: December 22, 2000
Trenton, New Jersey



RECOMMENDED



NOTICE TO 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 cease and desist from interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by the Act, particularly by demoting Supervisor of Maintenance and Construction John Rose in retaliation for Rose's union activities on behalf of CWA unit employees.

WE WILL cease and desist from discriminating in regard to the tenure of employment to discourage employees in the exercise of the rights guaranteed to them by the Act, particularly by demoting Supervisor of Maintenance and Construction John Rose in retaliation for Rose's union activities on behalf of CWA unit employees.

WE WILL rescind the demotion of John Rose to mechanic and restore him to supervisor, maintenance and construction and expunge the attendant disciplinary charges from his record.

WE WILL restore John Rose to his position as Supervisor Maintenance and Construction; make him whole for any monies and fringe benefits lost by reason of his demotion on October 24, 1997, plus interest pursuant to R.4:42-11(a) for each year.

Docket No.

CO-97-397

University of Medicine & Dentistry of New Jersey
(Public Employer)

Date:

By:

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 the Public Employment Relations Commission, 495 West State Street, P.O. Box 429, Trenton, NJ 08625-0429 (609) 984-7372

APPENDIX "A"