

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SOMERSET COUNTY BOARD OF  
SOCIAL SERVICES,

Respondent,

-and-

Docket No. CI-84-37

DEBORAH HAMPTON,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission finds that the Somerset County Board of Social Services did not violate the New Jersey Employer-Employee Relations Act when it discharged Deborah Hampton. An Administrative Law Judge recommended these conclusions and, in the absence of exceptions, the Commission adopts them.

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SOMERSET COUNTY BOARD OF  
SOCIAL SERVICES,

Respondent,

-and-

Docket No. CI-84-37

DEBORAH HAMPTON,

Charging Party.

Appearances:

For the Respondent, Lanigan, O'Connell & Chasin, Esqs.  
(Ellen O'Connell, Of Counsel)

For the Charging Party, James A. Key, Jr., Esquire

DECISION AND ORDER

On October 28, 1983, Deborah Hampton, an income maintenance technician, filed an unfair practice charge against the Somerset County Board of Social Services ("Board") with the Public Employment Relations Commission. The charge alleged that the Board violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et. seq., specifically subsections 5.4(a)(1), (3), (4), (5), and (7), <sup>1/</sup> when it terminated her employment allegedly

<sup>1/</sup> These subsections prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act; (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; (4) Discharging or otherwise discriminating against any employee because he has signed or filed an affidavit, petition or complaint or given any information or testimony under this act; (5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative; and (7) Violating any of the rules and regulations established by the commission."

because she had filed a grievance against her supervisor contesting a poor job evaluation she had received.<sup>2/</sup>

On November 18, 1983, the Board filed a response. It asserted that it terminated Hampton because of poor job performance, not because she filed a grievance. The Board also stated that Hampton had appealed her termination to the Civil Service Commission and that the matter had been transmitted to the Office of Administrative Law as a contested case.

On March 19, 1984, the Administrator of Unfair Practice Proceedings issued a Complaint. He simultaneously requested the Office of Administrative Law to consolidate the unfair practice and Civil Service cases for a single hearing.

On June 7, 1984, Administrative Law Judge Carl J. Jahnke consolidated the cases and ordered a single hearing pursuant to N.J.A.C. 1:1-14.3. He further concluded, however, that both agency heads should render a final decision with respect to those distinct issues before each agency.<sup>3/</sup>

On June 19, 20, and 24, 1984, Judge Jahnke conducted a hearing. The parties examined witnesses and introduced exhibits. The record was subsequently reopened, over the Board's objection,

<sup>2/</sup> The charge also alleges that her union violated subsections 5.4(b)(1), (2), (3), and (5) when it did not properly represent her; however, the union was not named as a party in the charge and this conclusionary statement was not supported by any factual allegations.

<sup>3/</sup> Judge Jahnke also informed the parties that that portion of Ms. Hampton's charge alleging improper representation by her union could not be consolidated. He severed that portion and returned it to the Commission. As mentioned in the previous footnote, Hampton did not make her employee representative a party to this action nor did she allege facts sufficient to support a showing of improper representation. Therefore, that aspect of the charge is dismissed.

to permit the introduction of more documents.

On November 1, 1984, Judge Jahnke issued his decision, Deborah Hampton v. Somerset County Board of Social Services, Docket Nos. CSV 4684-83 and PERC 2000-84. He found that Hampton's termination was motivated solely by her poor job performance, and not by her grievance. See Township of Bridgewater v. Bridgewater Public Works Association, 95 N.J. 235 (1984).

The Administrative Law Judge served a copy of his decision on the parties and informed them that exceptions, if any, were due within ten (10) calendar days of its receipt. Neither party filed exceptions or requested an extension of time.


On December 4, 1984, the Civil Service Commission adopted the recommended decision insofar as it concerned Civil Service issues. We received an extension of time from the Office of Administrative Law so we could consider this case at our next regularly scheduled meeting.

We have reviewed the record. The Administrative Law Judge's findings of fact are accurate. We adopt and incorporate them here. Applying the standards set forth in Bridgewater, we hold, that the Board did not violate our Act when it terminated the charging party. She did not prove that her termination was discriminatorily motivated and the Board proved that it would have dismissed her in any event because of her inadequate job performance. Accordingly, we dismiss the Complaint.

ORDER

The Complaint is dismissed.

BY ORDER OF THE COMMISSION

  
\_\_\_\_\_  
James W. Mastriani  
Chairman

Chairman Mastriani, Commissioners Butch, Hipp, Newbaker, Suskin and Wenzler voted in favor of this decision. None opposed. Commissioner Graves abstained.

DATED: Trenton, New Jersey  
January 22, 1985  
ISSUED: January 23, 1985