

P.E.R.C. NO. 94-105

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWN OF HARRISON &  
HARRISON PBA LOCAL 22,

Respondents,

-and-

Docket No. CI-93-1

DANIEL T. NANKIVELL,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission sustains the Director of Unfair Practices' refusal to issue a Complaint on an unfair practice charge alleging that the Town of Harrison and Harrison PBA Local 22 failed to initiate the grievance procedure pursuant to the terms and conditions contained in the contract. The charging party's allegations, even if true, would not constitute an unfair practice. There are no specific factual allegations that the PBA treated the charging party differently because of his FOP status or that the PBA otherwise acted arbitrarily, discriminatorily, or in bad faith.

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Appearances:

For the Respondent Town, Murray, Murray & Corrigan,  
attorneys (David F. Corrigan, of counsel)

For the Respondent PBA, Whipple, Ross & Hirsh, P.A.,  
attorneys (Donald B. Ross, of counsel)

For the Charging Party, A.J. Fusco, Jr., P.A., attorneys

DECISION AND ORDER

On July 1 and 20, 1992, Daniel T. Nankivell filed an unfair practice charge and amended charge against the Town of Harrison and Harrison PBA Local 22. The charge, as amended, alleges that the employer and the majority representative "failed to initiate the grievance procedure pursuant to the terms and conditions contained in the Contract."

On February 14, 1994, the Director of Unfair Practices refused to issue a Complaint. D.U.P. No. 94-28, 20 NJPER \_\_\_\_ (¶\_\_\_\_ 1994). The Director found that Nankivell's grievance had been processed through the first three steps of the grievance procedure and that the PBA was willing to allow the grievance to


proceed to arbitration, but not at its expense. He concluded that Nankivell's assertion that as a "dissident," he should receive the same "devotion" as union members is not a fact which warrants issuing a Complaint. The Director also concluded that the employer's alleged failure to process a grievance through the self-executing grievance procedure did not warrant a Complaint. On March 16, Nankivell appealed.

We sustain the refusal to issue a Complaint. The charging party's allegations, even if true, would not constitute an unfair practice. There are no specific factual allegations that the PBA treated Nankivell differently because of his FOP status or that the PBA otherwise acted arbitrarily, discriminatorily, or in bad faith. N.J.A.C. 19:14-1.3; 2.1; 2.3.

ORDER

The refusal to issue a Complaint is sustained.

BY ORDER OF THE COMMISSION

  
James W. Mastriani  
Chairman

Chairman Mastriani, Commissioners Bertolino, Goetting, Klagholz, Regan, Smith and Wenzler voted in favor of this decision. None opposed.

DATED: April 28, 1994  
Trenton, New Jersey  
ISSUED: April 29, 1994