

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of :  
MATILDA ENDRESS, :  
: Appellant, :  
: -and- : OAL Docket No. CSV 8330-00  
: BURLINGTON COUNTY, :  
: Respondent. :  
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BURLINGTON COUNTY, :  
: Respondent, :  
: -and- : PERC Docket No. CO-H-2001-98  
: COMMUNICATIONS WORKERS OF :  
AMERICA, LOCAL 1034. :  
: Charging Party. :

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against Burlington County. The Complaint was based on an unfair practice charge filed by Communications Workers of America, Local 1034 alleging that the County suspended and subjected Matilda Endress to spurious charges as part of an effort to destroy the bargaining unit. Endress appealed the suspension to the Merit System Board. The unfair practice Complaint and the Merit System Board appeal were consolidated and heard by an Administrative Law Judge. The ALJ concluded that Endress' transfer to another facility did not constitute an unfair practice. The Commission adopts the ALJ's findings of fact and conclusions of law and dismisses the Complaint. The Commission transfers the case to the Merit System Board for further proceedings consistent with the consolidated order

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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	:	
Charging Party.	:	

Appearances:

For the Charging Party/Appellant, Steve Jarema, CWA Staff Representative

For the Respondent, Evan H.C. Crook, Burlington County Solicitor (Daniel Hornickel, Assistant County Solicitor)

DECISION

Matilda Endress was suspended for six days by Burlington County on charges of insubordination, conduct unbecoming a State employee, neglect of duty, and other sufficient cause. On September 28, 2000, she appealed to the Merit System Board.

On October 19, 2000, Communications Workers of America, Local 1034 filed an unfair practice charge alleging that Endress

was suspended and subjected to spurious charges as part of an effort to destroy the bargaining unit. On January 10, 2001, the charge was amended to add additional allegations. On February 20, 2001, a Complaint and Notice of Hearing based on the charge and amendment issued.

On March 13 and 27, 2002, respectively, the Chair of the Public Employment Relations Commission, acting pursuant to authority delegated to her by the full Commission, and the Merit System Board entered a Joint Order consolidating the charge and appeal. The consolidated case would be heard by an Administrative Law Judge. The Judge's initial decision and the record would be forwarded to the Commission first to determine whether Endress's suspension was motivated by hostility towards activity protected by the New Jersey Employer-Employee Relations Act. The case would then be transferred to the Merit System Board to determine whether the suspension was for legitimate business reasons and whether it was otherwise warranted under Merit System law. If necessary, the case would then be returned to the Commission for the issuance of any specialized relief.

On September 27, 2001, a conference hearing was held. On June 13, 2002, Administrative Law Judge Kathryn A. Clark issued her Initial Decision. She found and concluded that Endress failed to follow an order and therefore was insubordinate, did not conduct herself in a manner becoming a State employee, and neglected her duty. The ALJ sustained the charges and found the

six-day suspension appropriate and in accord with the principle of progressive discipline. The ALJ did not sustain the claim that transferring Endress to another facility constituted an unfair practice. She found that her services were needed at the facility to which she was reassigned and that her activity as a shop steward was not hampered by the reassignment.


The Initial Decision was served on the parties. No exceptions were filed.

We have reviewed the record. We adopt the ALJ's findings of fact and conclusion that the record does not support finding that protected activity was a substantial or motivating factor in the decisions to suspend or reassign Endress. In re Bridgewater Tp., 95 N.J. 235 (1984). Accordingly, we dismiss the unfair practice Complaint and transfer the matter to the Merit System Board pursuant to our Joint Order.

ORDER

The Complaint is dismissed.

BY ORDER OF THE COMMISSION

  
Millicent A. Wasell  
Chair

Chair Wasell, Commissioners Buchanan, McGlynn, Muscato and Ricci voted in favor of this decisions. None opposed. Commissioner Katz abstained from consideration. Commissioner Sandman was not present.

DATED: July 25, 2002  
Trenton, New Jersey  
ISSUED: July 26, 2002