

P.E.R.C. NO. 93-29

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NORTHWEST BERGEN COUNTY
UTILITIES AUTHORITY,

Respondent,

-and-

Docket No. CO-H-89-301

UTILITY WORKERS UNION OF AMERICA,
AFL-CIO, LOCAL 534,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint based on an unfair practice charge filed by the Utility Workers Union of America, AFL-CIO, Local 534 against the Northwest Bergen County Utilities Authority. The charge alleged that the Authority violated the New Jersey Employer-Employee Act when it demoted George Warholak from laboratory technician to plant operator and later eliminated the laboratory technician title. The Commission finds the portion of the unfair practice charge challenging the demotion to be untimely. On this record, the Commission cannot conclude that the Authority's decision to eliminate the laboratory technician position was motivated by Warholak's grievance or the remote possibility that he might be reinstated to that position.

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Docket No. CO-H-89-301

UTILITY WORKERS UNION OF AMERICA,
AFL-CIO, LOCAL 534,

Charging Party.

Appearances:

For the Respondent, DeMaria, Ellis, Hunt, Salsberg and Friedman, attorneys (William J. Hunt, Brian N. Flynn and Richard H. Bauch, of counsel; Richard H. Bauch on the brief)

For the Charging Party, Ruprecht and Hart, attorneys (JoAnn Pietro, of counsel)

DECISION AND ORDER

On April 14, 1989, the Utility Workers Union of America, AFL-CIO, Local 534 filed an unfair practice charge against the Northwest Bergen County Utilities Authority. Local 534 alleges that the Authority violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically subsections 5.4(a)(1) and (3),^{1/} when it demoted George Warholak from laboratory

^{1/} 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.

technician to plant operator and later eliminated the laboratory technician title. Local 534 alleges that the Authority demoted Warholak because he engaged in protected activity and then eliminated the laboratory technician title because he grieved the demotion.

On May 16, 1989, the Authority filed a statement of position asserting that Warholak was demoted because he "left work early on several occasions without authorization [and] after being warned not to do so," and that it eliminated the lab technician title after a "reevaluation of its staffing needs." The Authority also claimed that the charge was untimely.

On October 12, 1989, a Complaint and Notice of Hearing issued. The Authority relied on its statement of position as its Answer.

On June 29, 1990 and April 23 and 24, 1991, Hearing Examiner Richard C. Gwin conducted a hearing. The parties examined witnesses and introduced exhibits. They waived oral argument but filed post-hearing briefs and replies.

On April 3, 1992, the Hearing Examiner issued his report and recommendations. H.E. No. 92-23, 18 NJPER 218 (¶23100 1992). He found untimely the allegation that Warholak was demoted because he engaged in protected activity. He found timely the allegation concerning the elimination of the laboratory technician position. He concluded that by eliminating that position, the Authority was

unlawfully attempting to deny Warholak an effective remedy in arbitration. He recommended that we order that Warholak be offered back his laboratory technician position with backpay plus interest.

On May 1, 1992, after an extension of time, the Authority filed exceptions to certain factual findings, in particular the finding that Executive Director Porfido told Local 534 President Berg that now that Warholak was a union member, they had to punish him for his absenteeism or everybody would try to get away with it. The Authority argues that Berg's testimony about Porfido's alleged statement should not have been admitted into evidence or credited. The Authority further argues that the alleged statement is, at most, nothing more than a statement of fact and does not prove hostility toward the union. Finally, it argues that it had a legitimate business reason for reorganizing the laboratory.

On June 4, 1992, Local 534 filed a reply. It urges that the Hearing Examiner's credibility determinations be upheld and his recommendations be adopted.

We have reviewed the record. We incorporate the Hearing Examiner's findings of fact (H.E. at 3-18). We find no basis to disturb his credibility determinations based on witness demeanor.

Allegations of retaliation for engaging in protected activity are governed by the standards set out in In re Bridgewater Tp., 95 N.J. 235 (1984). Under Bridgewater, 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 evidence or by circumstantial evidence showing that the employee engaged in protected activity, the employer knew of this activity and the employer was hostile toward the exercise of the protected rights. Id. at 246.

If the employer did not present any 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. The record can, however, demonstrate 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 us to resolve.

Accepting the Hearing Examiner's findings of fact, we conclude that the decision to demote Warholak was motivated, at least in part, by his union membership. But the portion of the unfair practice charge challenging the demotion is untimely since it was not filed within six months of the demotion. N.J.S.A. 34:13A-5.4(c). The timely portion of the charge challenges the

Authority's decision to reorganize the laboratory. That reorganization eliminated the laboratory technician position and prevented Warholak from being reinstated to that position.

The laboratory was a two-person operation: one full-time laboratory technician and one part-time supervisor under outside contract. In August 1988, at about the same time Warholak was demoted, the Authority was informed that the part-time supervisor would not be renewing his contract. Because the superintendent knew that he would no longer have either a laboratory supervisor or a laboratory technician, he suggested to the executive director that the Authority might again hire a full-time laboratory supervisor and have a designated plant operator perform basic laboratory analysis.^{2/} He later notified the union that the Authority would not be filling the vacant laboratory technician position because it was considering alternatives which might or might not include the position. The Authority solicited bids for a contract supervisor to replace the outgoing one and also advertised for a full-time supervisory employee. It appears that it was exploring more than one option. Although the Authority knew that Warholak had grieved his demotion, nothing in the record suggests that it had any reason to believe the demotion would be rescinded by an arbitrator. In

^{2/} The part-time contract supervisor had been a full-time supervisory employee of the Authority before he resigned to start a consulting business. After he resigned, he entered into the contract to provide supervision part-time.

fact, the union did not file for arbitration until the following month.

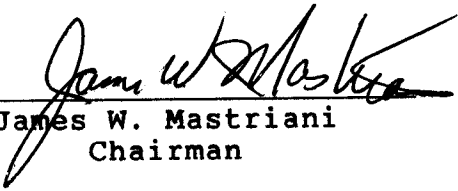
Ultimately, no bids for the contract supervisor's position were received. The Authority then pursued the option of hiring a full-time supervisor. Once it decided to hire a full-time supervisor, it had two choices: fill the laboratory technician position (Warholak was still demoted) or use a lower-paid plant operator to perform tests under the full-time supervision of the new laboratory supervisor. It chose the less expensive alternative.

More than six months later, the arbitrator found that an eight week demotion rather than an indefinite one was a reasonable penalty for Warholak's failure to follow the Authority's attendance rules. But the decision to eliminate Warholak's position had been made long before. On this record, we cannot conclude that the Authority's decision to eliminate the laboratory technician position was motivated by Warholak's grievance or the remote possibility that he might be reinstated to that position. We note in particular that the statement attributed to the executive director might explain why the Authority would discipline Warholak, but it does not explain why the Authority would go further and eliminate his position. But even if the desire to prevent Warholak from reentering the lab was a consideration, the fact that no bids for a contract supervisor were received convinces us that the Authority would have reorganized the laboratory anyway.

ORDER

The Complaint is dismissed.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Goetting, Grandrimo, Regan and Wenzler voted in favor of this decision. Commissioners Bertolino and Smith voted against this decision.

DATED: October 22, 1992
Trenton, New Jersey
ISSUED: October 23, 1992

H.E. NO. 92-23

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

In the Matter of

NORTHWEST BERGEN COUNTY
UTILITIES AUTHORITY,

Respondent,

-and-

Docket No. CO-H-89-301

UTILITY WORKERS UNION OF AMERICA,
AFL-CIO, LOCAL 534,

Charging Party.

SYNOPSIS

A Hearing Examiner finds that the Authority violated subsections 5.4(a)(3) and (1) when it eliminated the title of Lab Technician. The Hearing Examiner rejects the Authority's proffered reason of cost savings as a pretext, and concludes that by eliminating the title the Authority was unlawfully attempting to deny an effective remedy in arbitration to the employee who had grieved his permanent demotion from the title.

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.

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

In the Matter of

NORTHWEST BERGEN COUNTY
UTILITIES AUTHORITY,

Respondent,

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Docket No. CO-H-89-301

UTILITY WORKERS UNION OF AMERICA,
AFL-CIO, LOCAL 534,

Charging Party.

Appearances:

For the Respondent, DeMaria, Ellis, Hunt, Salsberg and
Friedman, attorneys (Brian N. Flynn and Richard Bauch, of
counsel)

For the Charging Party, Shanahan and Burns, attorneys
(JoAnn Pietro, of counsel)

HEARING EXAMINER'S REPORT
AND RECOMMENDED DECISION

On April 14, 1989, the Utility Workers Union of America,
AFL-CIO, Local 534 ("Union" or "Local 534") filed an unfair practice
charge alleging that the Northwest Bergen County Utilities Authority
("Authority") violated subsections 5.4(a)(1) and (3)^{1/} of the New
Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq.,

1/ 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.

("Act"), when it demoted George Warholak from Lab Technician to Plant Operator and later eliminated the Lab Technician title. The Union alleges that the Authority demoted Warholak because he engaged in protected activity and then eliminated the Lab Technician title because he grieved the demotion.

On May 16, 1989, the Authority filed a statement of position [N.J.A.C. 19:14-1.6(a)(2)] asserting that Warholak was demoted because he "left work early on several occasions without authorization [and] after being warned not to do so," and that it eliminated the Lab Technician title after a "reevaluation of its staffing needs." The Authority also claimed that the charge was not filed within the statute of limitations. (C-2A).

On October 12, 1989, the Director of Unfair Practices issued a Complaint and Notice of Hearing (C-1).

On October 23, 1989, the Authority notified the Commission that it would rely on its statement of position as its Answer to the Complaint.

I conducted a hearing on June 29, 1990 and on April 23 and 24, 1991. The parties examined witnesses and introduced documents. They filed briefs on September 16, 1991. The Union filed a corrected brief on September 20, 1991. The Authority filed a reply on October 9, 1991. Based on the entire record, I make the following:

FINDINGS OF FACT

1. The Authority is a public employer within the meaning of the Act and is subject to its provisions. (1T8).^{2/}

2. Local 534 is an employee organization within the meaning of the Act and is subject to its provisions. (1T9). It represents a collective negotiations unit of the Authority's non-supervisory plant employees which includes the titles of Plant Operator and Lab Technician. (J-2).

3. The following provisions of the parties' collective negotiations agreement -- a joint exhibit in this proceeding (J-2) -- are relied upon in my analysis: Article XXII--License Incentives; Article XXXIII--Longevity; Salary Schedule--Appendix C; Longevity Salary Guide--Appendix E. (See pp. 25-27, infra).

4. The Authority demoted George Warholak from Lab Technician to Plant Operator on August 8, 1988. The Union grieved the demotion and the grievance went before Arbitrator Thomas A. Knowlton. (1T74-75). On June 26, 1989, Arbitrator Knowlton issued an award. (1T78). The parties have stipulated to the accuracy of Arbitrator Knowlton's factual findings and conclusions (1T8), some of which follow:

Mr. Warholak was hired by the Authority in 1980 as a Plant Operator. He was promoted to the position of Lab Technician in October 1983 and was demoted to the position of Plant Operator on August 8, 1988 as a disciplinary action for leaving work early without permission on July 21, 1988 after having been warned not to do so....

^{2/} "1T" refers to the transcript taken on June 29, 1990; "2T" refers to the transcript taken on April 23, 1991; and "3T" to the transcript taken on April 24, 1991.

The record indicates that there was no dissatisfaction with Mr. Warholak's work performance as a Plant Operator or as a Lab Technician throughout his employment, except that there were a number of occasions in 1987 and 1988 when he left work early....

On May 11, 1988 Mr. Emil Porfido, the Executive Director of the Operation, and the Superintendent, Mr. Baer, had a meeting with Warholak in Porfido's office in which they "spoke with George about leaving early without notice and spending time in the lunch room with other employees during lunch and breaks...."

The purpose of the May 11th meeting was to show Warholak the number of occasions, beginning in May 1987 through May 10, 1988, in which Warholak left work early....

[T]here is no indication that the grievant left work early, after the May 11th discussion, until July 21st, during part of which time Warholak was on vacation. The principal contention of the Employer is that his early departure on July 21st took place without any notification and, of course, without completing the proper request form or orally informing any Supervisor of his intention to do so.

According to his time-card, he punched out at 3:24 on July 21st and is credited with having worked for seven hours on that day. There is no doubt that the grievant left work on the 21st without making any written request to do so. This was a violation of the policy of the Authority and was especially serious in Warholak's case because of his position as Lab Technician, which has no direct supervision in the Laboratory on a full-time basis....

Alvarez, Supervisor of Operations, was not the grievant's direct Supervisor, though on occasion he would serve as the person to whom Warholak submitted his request for early departures and certainly was present on the afternoon of July 21st. He testified that he spoke to Warholak between 3 and 3:30 p.m. on that day after he had been paged by Warholak who told him that he would be off on the following day,

Friday, as a vacation day, as he would also probably be off the following week to take care of his neck. He was quite emphatic that Warholak said nothing to him about leaving early that afternoon though the grievant did leave within a few minutes after this conversation. It is clear from the testimony that, if Warholak had spoken to Alvarez and informed him that he was leaving early, there would have been no problem in doing so.

At no time during the grievance procedure was it claimed by the Union that Warholak had, in fact, gotten permission from Alvarez as the person who would normally have been the one to whom Warholak would talk about the leaving-early problem. Warholak testified at the hearing on June 6th that he told Alvarez on the 21st:

"Dave, I'm having a lot of trouble with my neck. I've really got to go. Please tell [another person] to cancel my vacation day for Friday, the 22nd. Dave said okay. This was just before I left."

The grievant believed that Alvarez "lied" because of some difficulties between the two men in 1986 and Alvarez had a "vendetta" against him which was especially noticeable after the grievant joined the Union in March 1988.

I was not impressed with Warholak's testimony in general and clearly I do not believe that he did inform Alvarez directly that he was leaving early on July 21st. He also testified that during the afternoon of that day, after lunch, the pain in his neck increased to the point where he finally had to leave, as he did at 3:24. There was obviously time enough for him to have spoken to Alvarez and, if he believed that Alvarez was unreliable, there was time enough for him to have obtained and filled out a written request, if he did not already have the proper form in his desk.

The only question in this dispute is whether his failure was so serious as to justify his demotion with a consequent reduction in pay on what was then considered to be a permanent basis.
[J-1, pp. 1-6]

5. Arbitrator Knowlton concluded that the Authority had cause to discipline Warholak but that a permanent demotion was excessive:

I believe that a proper reaction from the Employer would have been to demote him which I think, under the circumstances, was a reasonable exercise of the Employer's discretion, from August 8th, which was the effective date of his change in rate and title, for a period of eight weeks and that he should be compensated for the difference between his salary as a Lab Technician and that of his new job as Plant Operator, commencing October 3, 1988 to November 3, 1988.
[J-1, p. 7]

6. The Lab Technician job description summarizes Warholak's duties prior to his demotion as follows:

The Lab Technician performs the laboratory analysis and recordings of the obtained results. He will transmit these results to Plant Supervisor and apply them to the plant operation system process control, industrial waste surveys and monthly operational reports. [CP-3].

The tests Warholak regularly performed as a Lab Technician included a B.O.D. test (which he did twice weekly - he also was responsible for the quality control of the B.O.D. spike); ph analyses (which he did daily on the influent and effluent, on sludge truck samples, and on thickened sludge from the incinerator); a fecal coliform test (at least twice weekly); a suspended solids test (seven times a week) and an occasional in-house ammonia nitrogen test (for which the Authority's lab was not certified). (2T116-121; 134). Warholak also prepared samples to send out to labs which were certified to perform tests the Authority's lab could not. (2T121-125). He also reported temperatures and calibrated and

cleaned laboratory equipment (2T126, 129). Each day Warholak recorded his analyses and observations on bench sheets and later entered this information into the Authority's computer. (2T127). The computer generated daily reports from the information Warholak recorded. Warholak also compiled each month's daily reports into monthly operational reports (2T128). He also cleaned the lab and occasionally attended to incoming sludge trucks. (2T130).

7. As a Lab Technician, Warholak worked the 8 a.m. to 4:30 p.m. shift and had little supervision. (1T55-56). From November 1984 until August 1988 Warholak's "lab supervisor" was Steve Dowhan, an independent contractor working 20 hours each week for the Authority. Dowhan saw Warholak about once each week. Prior to November 1984, Dowhan had been an Authority employee. When Warholak was assigned to the lab in September 1981, he started as Dowhan's assistant. Dowhan had just been promoted from Lab Technician to Lab Supervisor. In November 1983, Dowhan was promoted to Operations Supervisor and Warholak was promoted to Lab Technician. In November 1984, Dowhan announced that he was leaving the Authority to set up a consulting business. He subsequently contracted with the Authority as a part-time Lab Supervisor. Warholak continued to work as a Lab Technician until his demotion in August 1988. (1T66-75; R-1; R-2; R-3).^{3/}

3/ Since his demotion, Warholak works a rotating shift as a Plant Operator.

8. In August 1988 Dowhan advised the Authority's Superintendent, George Baer, that he would not renew his contract as a part-time Lab Supervisor (1T75). On August 25, 1988 Baer sent the following memo to Executive Director Emil T. Porfido, about laboratory staffing:

Recent developments, relative to the subject have been (a) Mr. Dowhan is no longer available for the service of Laboratory Supervision as of November 1, 1988, (b) the contract period for Laboratory Supervision ends in October 1988, and (c) the disciplinary reassignment of Mr. Warholak from the Laboratory to Plant Operations.

In view of the above and our discussions on the subject, the following is a recommended outline of proposed laboratory staffing.

Employ a full time Laboratory Supervisor (job description attached), adjust other staff activities/work assignments as follows:

Operations Supervisor - Interpret, calculate and develop process control coordination with the Laboratory Supervisor. Assign designated Plant Operators to various supervised duties/activities related to sampling and analysis of wastewater and sludges.

Designated Plant Operator - Per the Plant Operator job description, the designated Plant Operator will "perform basic Laboratory analysis," as assigned by the Operations Supervisor. These activities will be confined to the 7:00 a.m. to 3:30 p.m shift.

Currently we are evaluating the qualifications, experience and abilities of the Plant Operators. Subsequently, we will report on individuals whom we feel could be designated for Laboratory activities.
[R-4].

The "responsibilities" listed in Baer's 8/25/88 Lab Supervisor job description (which was attached to his memo to

Porfido -- R-4) are identical to the responsibilities listed in the 11/17/83 Lab Technician job description. The "Responsibility" section of each job description reads:

The Laboratory Supervisor [Lab Technician] is responsible for: The performance of all laboratory analysis in accordance with accepted "Standard Methods for Examination of Water and Waste Water" U.S.P.H.S. and A.P.H.A., and the regulation governing Laboratory Certifications.

Maintaining necessary reagents and equipment.

Requesting the order of equipment and supplies for sampling and analysis.

Maintaining records of analysis results, applying them with necessary factors to the Monthly Operating Reports. Maintaining close liaison with Supervision. [R-2 and R-4]

The "summary" sections of the job descriptions differ only in that the Lab Supervisor can "perform or direct" lab analyses, and there is a specific citation to regulations governing laboratory certification and standards of performance [N.J.S.A. 7:18] in the Lab Supervisor description. The authority delegated to the titles differs in that a Lab Supervisor, "under the direction of Plant Management, has the authority to direct and supervise Plant Personnel while they are engaged in Laboratory or process control activities." [R-4]. A Lab Technician, however, "does not have direct authority over plant personnel unless they are specifically assigned by Supervision to assist in the activities which must be supervised by an experienced and qualified Laboratory Technician." [R-2].

9. On September 8, 1988, the Authority decided to seek bids for a contract Lab Supervisor to replace Dowhan. [1T78-79]. On September 29, 1988, the Ridgewood News published a notice to bidders. [R-5].

10. On October 20, 1988, Executive Director Porfido sent the following memo to the Authority's Personnel Committee:

NBCUA LABORATORY STAFFING ALTERNATIVES

BACKGROUND

The Northwest Bergen County Utilities Authority Laboratory was operated during 1988 with supervisory services provided through a contract with D2L Associates [Dowhan] at a cost of \$12,700. The Laboratory Technician worked full-time at a cost of \$33,900. The total cost for operating our laboratory came to \$46,600. D2L Associates has advised us that they will not be rebidding for this contract in 1989. We have, therefore, reviewed this operation and are considering the following alternatives.

ALTERNATE A - Employ a full-time Laboratory Supervisor with the required degree in Chemistry or Biology at a starting salary of \$32,000. Utilize a designated Plant Operator for 50% of his time to work in the Laboratory \$12,000. The remaining 50% of his time would be used for sludge and septage receiving and related process activities.

Total Cost for this alternative for 1989 would be \$44,000.

ALTERNATE B - Employ a full-time Laboratory Technician and contract for Laboratory Supervision as we did in 1988. The cost for the alternative is projected at (Lab Tech \$35,500, Lab Supervisor Contract \$14,000) Total \$49,500. This alternative would cost more for a Lab Technician than a Lab Supervisor with a degree and not provide staff for septage and sludge receiving.

ALTERNATE C - Employ a full-time Laboratory Supervisor with required degree at salary of \$32,000, employ a Laboratory Technician with 50% of his time used in laboratory at a cost of \$17,500 (50% of time used for septage and sludge receiving and related process activities).

Total Cost for this alternative \$49,500 plus \$17,500 For extra activities. This alternative cost is too high for alternative costs for sludge and septage receiving.

Alternatives B & C must be considered since we are in arbitration with Local 534 concerning our former Laboratory Technician.

We have interviewed a number of good prospects for the Laboratory Supervisor position, all with the necessary degree, willing to accept a starting salary of \$32,000 to \$36,000.00.

We are receiving bids for Laboratory Supervision on Monday, October 24, 1999. The cost noted in Alternative B is an estimate.

Based on the above it is clear that Alternate A is our least costly and most effective alternative, at this time.

We will forward our recommendation to the Personnel Committee after receiving and reviewing bids for the Supervisory Service on October 24, 1988. [R-6].

11. On his direct examination, Baer was asked if he made "any recommendations to the Executive Director as to the choice between these three alternatives" (about staffing as outlined in Porfido's memo). [1T80]. Baer replied that he had and that, "The recommendation that we ended up with was...the full time Lab Supervisor as required by certification regulations and a designated

operator." [1T81]. Baer did not, however, recommend one of Porfido's three alternatives. Baer recommended employing a full-time Lab Supervisor and a Designated Plant Operator to "perform basic laboratory analyses" during the 7:00 a.m. to 3:30 p.m. shift [1T76-77; R-4; See finding 7].

12. On October 25, 1988, Porfido sent a memo to the Authority's personnel committee stating that no bids had been received for a contract Lab Supervisor but that nine candidates had been interviewed to fill the position as a full-time Authority employee (R-7, 1T82-85). Porfido also reiterated that Alternative A of his 10/20/88 memo [R-6], "which employs a full-time Laboratory Supervisor...and a [half-time] Plant Operator...is the least expensive and most efficient alternative to staffing [the] laboratory." [R-7]. Porfido noted that the appointment of a Lab Supervisor was scheduled for the Authority's November 3, 1988 regular meeting. There was no mention of Warholak's grievance in Porfido's October 28 memo.

13. On November 3, 1988, the Authority passed a resolution appointing Lester Lazarus as Laboratory Supervisor for a six-month probation period at an annual salary of \$32,000 [1T85-86; R-9]. He started work on November 14, 1988 (2T63). On June 1, 1989, after Lazarus successfully completed his probation, the Authority permanently appointed him Lab Supervisor (1T86-87; R-10). His responsibilities mirrored those listed in the job description prepared by Baer in August 1988 (1T53; 2T65; 2T74-83; CP-5; R-4).

14. Lazarus now supervises Designated Operator Don Zacheroff. Zacheroff was hired by the Authority on February 16, 1988 and has held the title of Designated Operator since May 1989, when he succeeded Paul Orvitz. Orvitz^{4/} had obtained the job in November 1988, shortly after Lazarus was appointed Lab Supervisor. (1T21, 1T98-99, 2T4-10). From November 1988 until November or December 1990, the Designated Operator (first Orvitz and then Zacheroff) worked in the lab from 7:00 a.m. until noon, and then tended sludge trucks in the afternoon. Since December 1990, however, Zacheroff has been working full-time in the laboratory (1T19-20; 1T59; 2T41). As of April 1991, his salary was \$31,634 (2T7). He performs many of the same tests that Warholak did as a Lab Technician (1T24-38; 2T10-35). In response to increased regulation, however, the Authority now performs the tests more frequently. The Authority is also attempting to equip its lab to perform in-house some of the tests for which it has used outside laboratories. (1T24-38; 2T10-35; 2T66-71, 2T85-88, 3T18-19, 24; CP-1; CP-3; R-14, R-15, R-16). Due to the increase in the frequency and types of tests it performs, the Authority now employs a full-time Lab Supervisor and a full-time Designated Operator in the lab. (Id., 2T109; 3T18-26).

15. While testifying, Warholak was adamant that the current Designated Operator title is identical to his former Lab

^{4/} The reporter spells his name "Oravetz."

Technician title. Much of his testimony was argumentative and evasive. One notable example is his response to questions about his interest in the Designated Operator title after the reorganization. Warholak denied making a formal request about the new title. When confronted with a copy of his written request to see the outline of the title's duties and hours (R-13), he replied, "I don't believe that that's a formal request." (2T160). He later recanted. (2T161). His demeanor diluted his credibility and I place little weight on his testimony (See 2T138-139, 2T144-149, 2T159-163; 3T30-37; 3T49-63; R-13).

The Lab Technician title was a hybrid of the current Designated Operator and Laboratory Supervisor titles. Like the Designated Operator, Warholak performed lab analyses and recorded his findings on bench sheets. Like the Laboratory Supervisor, Warholak also entered that information into the computer and generated daily and monthly reports. He was also responsible for maintaining certain agents and equipment and doing some instrumentation. Having no regular supervisor, Warholak was more accountable for the goings-on in the laboratory than the current Designated Operator. (See findings 5, 6, 7 and 13).

16. Elaine Berg is President of Local 534. On or about September 20, 1988, Berg and Rudy Gnehm, a shop steward, attended a step-3 meeting about Warholak's grievance with Baer and Porfido (3T7). At that meeting Porfido and Baer told the Union representatives that Warholak's grievance was moot because the

Authority intended to restructure the lab (2T168-170; 2T175).^{5/}
Berg argued that a permanent demotion was "a ridiculous disciplinary action," for Warholak's offense (2T171). About the step-3 meeting, Berg testified that:

Mr. Porfido said to me look, Elaine, this is the situation as we have it. Up until a few months ago Mr. Warholak was not a member of the Union. When we allowed certain behavior, we could allow it. Now that he's a member of the Union, we cannot allow that behavior. And we had to punish him, otherwise everybody would try to get away with it.
[2T174]

Porfido denied making the statement (3T10). He added that he "could not believe...anybody would think that an Executive Director in a management position would tell the President of the Union what she said I told her...That would be a foolish statement." (3T11). Porfido testified that he did say "to the Union people that I thought they were being taken for suckers and I thought that Mr. Warholak was using the Union for his own interests...I couldn't understand them using Union dues to fight a case for a man who just joined the Union to get them to take up his cause." (3T9-10).^{6/}

On this critical point, I credit Berg's testimony. Her demeanor on the witness stand was impressive. She was deliberate,

^{5/} On September 13, 1988 Baer had sent Gnehm a memo about a grievance filed over the Authority's failure to post the Lab Technician vacancy. Baer advised that the Authority did not intend to fill the position and was "considering alternatives to staffing the Laboratory which may or may not include the position of Laboratory Technician." (J-3C).

^{6/} Warholak joined the Union in the Spring of 1988. Sometime in March, Baer gave him a dues authorization card (1T87; 2T114).

forthright, precise and believable. She was consistent and withstood cross-examination. By contrast, Porfido's suggestion that Berg's testimony was incredible simply because an Executive Director would be foolish to say such a thing, strains credulity. Cases arising under the Act contain several examples of public employer agents committing unfair practices by their conduct or statements. (See e.g. CWA and State of New Jersey, P.E.R.C. No. 85-77, 11 NJPER 74 (¶16036 1985), aff'd App. Div. Dkt. Nos. A-2920-84T7 and A-3184-84T7 (4/7/86)). One need only look at a newspaper for examples of people in responsible positions saying or doing "foolish" things.

The Authority challenged Berg's memory of the step-3 meeting. Porfido testified that John Moriarty, a Union representative, attended the meeting. Berg had testified she and Rudy Gnehm had attended. Thus, the Authority contends, Berg does not accurately recall what occurred at the meeting and her testimony about Porfido's remarks should not be credited. Porfido's testimony follows:

Q. Do you recall the hearing that was held with regard to step three of R-11 [the grievance]?

A. Yes, I do.

Q. Do you recall where that took place?

A. It took place in my office at the Northwest Bergen County Utilities Authority.

Q. And do you recall the date that occurred?

A. I believe, if my memory is correct, from the papers I reviewed it was around September 20 something, 22 or 20.

Q. Of what year?

A. 1988.

Q. And do you recall who was in attendance at that meeting?

A. Yes, Myself, George Baer representing the Authority, and Rudy Gnehm, Elaine Berg, and I believe John Moriarty.

Q. Were you present in the courtroom -- in the room, hearing room yesterday when Elaine Berg testified?

A. Yes, I was.

Q. Elaine Berg did not mention that Mr. Moriarty was present at that hearing. I ask you to just think back clearly as to whether you're sure Mr. Moriarty was there?

A. I'm sure because I reviewed my papers on that hearing this morning and found that my memo clearly states, my letter clearly states that he was there, and that convinces me that he was present.
[3T7, 8].

Porfido's testimony is equivocal. He "believes...if his memory is correct," that the meeting occurred "around September 20 something, 22 or 20." (3T7). Porfido "believed" that Moriarty was present at the meeting because a "letter clearly state[d] he was there." (3T8). Berg had testified that there were two meetings about the grievance at about this time; the one she described at which Porfido made his statement, and a second, attended by Moriarty. Berg's recollection is supported by J-3D, a September 29, 1988 letter from Porfido to Berg in which he refers to "the

discussion held in my office on September 20, 1988 between John Moriarty, President of the [Union], Rudy Gnehm, Shop Steward of Local 534, George Baer...and myself." Porfido does not mention Berg's presence. She was obviously at the step-3 meeting; on that point both Berg and Porfido concur. (3T7). Based on Porfido's equivocation, J-3D, and Berg's demeanor, I conclude that the Authority has failed to discredit Berg's recollection of the meeting.

I consider also the nature of the statement in crediting Berg's testimony. "Now that he's a member of the Union, we cannot allow that behavior...[w]e had to punish him, otherwise everybody would try to get away with it." [2T174]. This is not a statement that a Union President would easily forget. Moreover, in its tone, this statement is not unlike the remark Porfido admits to have made: both suggest that Porfido held Warholak in disdain for using the Union to pursue his grievance. I conclude that Porfido made the statement and meant what he said.

ANALYSIS

Local 534 argues that the Authority permanently demoted Warholak because he joined the Union and that it eliminated the Lab Technician title so that Warholak would have no effective relief in arbitration. As a remedy, the Union seeks an order reinstating Warholak as a Lab Technician with back pay.^{7/} The Authority

^{7/} The Union also seeks attorneys fees - a remedy the Commission has yet to order.

argues that it had just cause to demote Warholak demonstrated by Arbitrator Knowlton's award, and a legitimate business reason - cost savings - for eliminating the Lab Technician title. It also claims the charge was not timely filed.

N.J.S.A. 34:13A-5.4(c) gives the Commission "exclusive power...to prevent anyone from engaging in any unfair practice..." [and] authority to issue...a complaint stating the specific unfair practice charged...provided that no complaint shall issue based upon any unfair practice occurring more than 6 months prior to the filing of the charge." Thus, events occurring more than six months prior to April 14, 1989 (i.e. before October 14, 1988), may not, independently, form the basis for finding an unfair practice.

N.J.S.A. 34:13A-5.4(a)(3) prohibits public employers, their representatives or agents from "discriminating in regard to hire or tenure of employment or any term and condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this Act." The "rights guaranteed" by the act include the rights "to form, join and assist any employee organization." N.J.S.A. 34:13A-5.3.

In In re Bridgewater Tp., 95 N.J. 235 (1984), the Supreme Court, affirming the Commission's determination that an employee had been illegally transferred and demoted, articulated the following standards for determining whether an employer has illegally discriminated:

...[T]he employee must make a prima facie showing sufficient to support the inference that

the protected union conduct was a motivating factor or a substantial factor in the employer's decision. Mere presence of anti-union animus is not enough. The employee must establish that the anti-union animus was a motivating force or a substantial reason for the employer's action. [NLRB v. Transportation Management, 462 U.S. at 401, 103 S.Ct. at 2474, 76 L.Ed. 2d at 675, 113 LRRM 2857 (1983)]. Once that prima facie case is established, however, the burden shifts to the employer to demonstrate by a preponderance of the evidence that the same action would have taken place even in the absence of the protected activity. Id. This shifting of proof does not relieve the charging party of proving the elements of the violation but merely requires the employer to prove an affirmative defense. Id. at 242 (footnote omitted)

Under Bridgewater, no violation will be found unless the charging party proves, 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 evidence or by circumstantial evidence showing that the employee engaged in protected activity, the employer knew of this activity and the employer was hostile toward the exercise of the protected rights. Id. at 246.

If the employer does not present evidence of a lawful motive or if its explanation is rejected as a pretext, there is a 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. 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. In these dual motive cases, conflicting proofs about the employer's motives are for the trier of fact to resolve. Id. See Rutgers Medical School, P.E.R.C. No. 87-87, 13 NJPER 115 (¶18050 1987); Holo-Krome Co. v. NLRB, ___ F.2d. ___, 139 LRRM 2353 (2nd Cir. 1992).

The operative date for the statute of limitations is October 14, 1988. Events occurring prior to that date may not, independently, form the basis for finding an unfair practice. Thus, evidence about the Authority's decision on August 8, 1988 to permanently demote Warholak may not, standing alone, be relied upon to find a violation of the Act.

The Authority's decision to eliminate the Lab Technician title was made by resolution on November 3, 1988, within the limitations period. Evidence about the Authority's motives both to demote Warholak and to eliminate the title is relevant to the timely issue. In analyzing this case I first examine the Authority's motives relative to the demotion. I then consider whether the Authority violated the Act by eliminating the title.

I find that the Union has shown by a preponderance of the evidence on the entire record that anti-union animus was a motivating factor in the Authority's decision to permanently demote Warholak. Warholak had worked at the Authority for eight years when

he was demoted. He had been a Lab Technician for nearly five years. The Authority had been satisfied with his performance except for the number of occasions he left work early in 1987 and 1988. In March 1988, Warholak joined the Union. The Authority knew that he joined the Union because Baer gave him his dues authorization card. Before he joined the Union, the Authority had not disciplined Warholak for the absences or any other offense. On May 11, 1988, he was counseled for the first time about leaving work early. On July 21, 1988 he left work at 3:24 (about one hour early) and on August 8, 1988 was permanently demoted. Arbitrator Knowlton concluded, and the parties have acknowledged by stipulation, that the Authority had just cause to demote Warholak, but that a permanent demotion was excessive discipline.

Standing alone, this evidence may not meet the Union's burden under Bridgewater. The Authority was motivated, at least in part, by Warholak's record of leaving work early without permission. Arbitrator Knowlton found this to be a sufficient reason for an eight-week demotion and it is certainly a lawful motive for discipline under the Act.

The circumstantial evidence about the timing and severity of the discipline when considered with Porfido's remark at the step-3 hearing, however, shows that animus was a motivating factor in the Authority's decision to permanently demote Warholak. Porfido's remark is direct evidence of animus: "We allowed certain behavior" when Warholak was not a Union member. Now that he has

joined the Union, however, "we had to punish him." This establishes a direct link between the adverse personnel action and the employer's motivation and it shows the motive to be hostile to the exercise of protected rights.

Thus, the record shows that both lawful motives (Warholak leaving early) and unlawful motives (the Authority's hostility about Warholak's representation by the Union) contributed to the permanent demotion. Would the Authority have permanently demoted Warholak had he not joined the Union? Porfido's remark is a direct answer to the question. The message sent of Warholak's permanent demotion was that certain conduct would be tolerated of those who are not Union members but not of those who join the Union. This discriminates against employees' rights to form, join or assist employee organizations. Bridgewater. State of New Jersey (Human Services) and Joseph S. Seaman, P.E.R.C. No. 87-88, 13 NJPER 117 (¶18051 1987); Downe Tp. Bd. of Ed., P.E.R.C. No. 86-66, 12 NJPER 3 (¶17002 1985).

I now consider whether the elimination of the Lab Technician title violated Section 5.4(a)(3) and, derivatively, (a)(1). I conclude that it did. All the reasons discussed about the permanent demotion are relevant to the elimination of the Lab Technician title. Those include: 1) the closeness in time of Warholak's discipline to his joining the union; 2) the arbitrator's finding that the permanent demotion was excessive discipline; 3) Porfido's remark that Warholak had to be punished. Consider also

Porfido's admitted dislike of Warholak using the union to pursue his grievance: "I couldn't understand them using union dues to fight a case for a man who just joined the union to get them to take up his cause." (3T10).

I conclude that the reason proffered by the Authority for eliminating the Lab Technician title, i.e., that it was the least expensive way to restructure the lab, was a pretext. Nothing in the record shows that the Authority was looking for ways to save money until Porfido's October 20, 1988 memo (R-6). On August 25, 1988, Baer had recommended that Porfido use a full-time Lab Supervisor and a Designated Operator for lab analysis on a 7:00 a.m. to 3:30 p.m. shift (R-4); a proposal that would have been more expensive than the contract Lab Supervisor and Lab Technician structure. On September 20, 1988, the step-3 hearing was held and Porfido spoke of the need to punish Warholak, and on October 20, 1988, Porfido sent his memo on staffing alternatives to the Personnel Committee.

Porfido's calculations about cost savings in his memo (R-6) are also suspicious. Under alternative A, he assumes a starting salary of \$32,000 for a Lab Supervisor and a Plant Operator cost of \$12,000 at 50 percent of his work time. This assumes that the Authority would be able to hire a Lab Supervisor at \$32,000 (and it was) and that it could find a Plant Operator who could do the lab work and who had a salary of \$24,000. In Porfido's September 29, 1988 letter to Berg, he refers to Warholak's salary (J-3D). The demotion reduced Warholak's salary from \$30,641 as a Lab Technician

to \$27,271 as a Plant Operator. Thus, if the Authority chose a Plant Operator with Warholak's years of experience, the annual cost for 50 percent of his time would be about \$13,600. The 1988 salary range of Plant Operators was \$22,258 to \$27,271 (J-2). The range for Laboratory Technician was \$25,569 to \$30,641. Id. In his October 20, 1988 memo, Porfido states that in 1988 the Lab Technician worked for a full-time cost of \$33,900. The \$3,259 difference between this figure and the salary listed in J-3D must be attributable to the stipends that Warholak received under the Authority's contract with the Union (J-2).^{8/} There is no

8/ The parties' contract (J-2) at Article XXII - License Incentives, provides:

Section 1 - Employees may receive an increase up to ten (10) percent above their annual base wage upon qualifying for either an S-4 (New Jersey State Department of Health Operator's License, S Class) or a C-4 (New Jersey State Department of Health Collector's License, C Class) as an operator or collector in a sewage treatment plant. Similarly, employees may receive an increase up to five (5) percent above their annual base salary for qualifying for an S-3 or a C-3 License.

These one-time increases above salary upon the award of either license are intended as an incentive to encourage all plant personnel not required to possess such a license to develop the knowledge and skills that will continue to provide improvement in plant operation.

Said salary incentives will be in the discretion of the Authority based upon the present and future requirements of the Authority and the qualifications of the employee concerned.

An employee shall ask for a ruling as to whether the incentive

Footnote Continued on Next Page

discussion in Porfido's memo about whether the new Lab Supervisor would also receive those stipends for possessing similar licenses.

Under Alternatives B & C, Porfido calculated a full-time Lab Technician salary of \$35,500. This figure must assume that Warholak, with his license stipends and longevity, would be the person filling the position, rather than an employee with fewer years of service and no stipend, who might bid into the vacant position. (See, e.g. J-3C, fn. 5, p. 15, infra). The 1988 Lab Technician salary range was \$25,569 to \$30,641. If Porfido had been consistent in his method of computing the estimated salary of a hypothetical position by taking the mid-point of the salary range -- what he seems to have done the Designated Operator in Alternative "A" -- he would have calculated an annual salary for the vacant Lab Technician title at \$27,000 to \$28,000. This would have made Alternative A more costly than what had been the status quo - Alternative B.

To achieve the cost savings he predicts in his memo, Porfido assumes: 1) the lowest salary of the Lab Supervisor range; 2) a mid-point salary for the Designated Operator; 3) a 10% increase for the Lab Supervisor contract; and 4) a Lab Technician salary at the top of the salary range and inflated by about \$5,000, presumably

8/ Footnote Continued From Previous Page

will be paid to him prior to beginning the course study.

In 1988, Warholak was also entitled to a 2% longevity payment (not added to base) based on his June 1984 base salary of \$21,679. (J-2 Article XXXIII, Appendix E).

by license stipends. It is only by plugging Warholak into the Lab Technician slot that makes Alternative A less costly. And this cost savings is only short term. Warholak was already at the maximum step of his salary guide. The Lab Supervisor range is about \$6,000 higher than the Lab Technician's (\$32,000-36,000 compared to \$25,569-30,641, as of the date the Lab Supervisor was hired). Assuming that both ranges will increase by approximately the same percent through negotiated increases, the relative cost savings of using a new Lab Supervisor under Alternative A, rather than Warholak in B or C, vanishes as the Lab Supervisor continues to receive his step increases. Again, however, there is nothing in the record to suggest that the Authority was actually looking for ways to save money in the short or long term in the lab or anywhere else at the Authority until Porfido's October 20, 1988 memo.

On its face, Porfido's memo casts doubt on the veracity of the Authority's asserted business justification. Viewed with the balance of the record evidence, I find it pretextual. Warholak was permanently demoted on August 8th. The Union filed a grievance on August 11th. Two weeks later Baer recommended restaffing the lab with two full-time employees. His recommendation did not refer to cost-savings. The recommendation would have increased the cost of staffing the lab. About one month later, on September 20, Porfido states that Warholak must be punished because he is now in the Union. He also tells the Union that Warholak's grievance is moot because the Authority is going to restructure the lab. On

October 20, 1988 Porfido prepares his memo and for the first time points out that restructuring the lab without a Lab Technician (i.e., without Warholak) would save money. On November 3, 1988, the Authority resolves to adopt Porfido's recommendation.

Based on the entire record, I conclude that the Union has shown by a preponderance of the evidence that the Authority acted unlawfully when it eliminated the Lab Technician title. I also conclude that the motive offered by the Authority -- that eliminating the title was the least expensive way to restructure the lab -- was a pretext and that by eliminating the title the Authority was ensuring that Warholak had no effective remedy in arbitration. Under Bridgewater, this is a sufficient basis for finding a violation. Holo-Krome v. NLRB; State of New Jersey (Human Services) and Joseph S. Seaman.

I turn now to the question of remedy. N.J.A.C. 34:13A-5.4(c) authorizes the Commission to "cause to be served upon [a party which has engaged in an unfair practice] an order requiring such party to cease and desist from such unfair practice and to take such reasonable affirmative action as will effectuate the policies of the Act." This provision authorizes "the power to order that an employee be made whole through an award of back pay." Galloway Tp. Bd. of Ed. v. Galloway Tp. Ass'n of Ed. Sec., 78 N.J. 1, 9 (1978).

Before his demotion in August, 1988, Warholak had worked a day shift in the lab as a Lab Technician. Arbitrator Knowlton awarded Warholak back pay from October 3, 1988 until November 3, 1988, the date on which the Authority eliminated the lab Technician

title. In order to make Warholak whole for the unlawful elimination of his title, he should be offered a job on the day shift as a Lab Technician and receive back pay in the amount he would have received as a Lab Technician minus what he received as a Plant Operator from November 3, 1988 until the present, plus interest. R.4:42-11. See e.g., Tp. of Clark, P.E.R.C. No. 80-117, 6 NJPER 186 (111089 1980).

CONCLUSION OF LAW

The Authority violated §§5.4(a)(3) and (1) of the Act by eliminating the Lab Technician title in an attempt to deny George Warholak an effective remedy to a grievance about his permanent demotion from that title filed by Local 534.

RECOMMENDED ORDER

I recommend that the Commission ORDER:

1. That the Authority cease and desist from interfering with employees' rights to form, join and assist employee organizations, by eliminating the Lab Technician title and denying George Warholak a meaningful remedy in the arbitration of his grievance about his permanent demotion.

2. That the Authority 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 by eliminating the Lab Technician title and denying George Warholak a meaningful remedy in the arbitration of his grievance about his permanent demotion.


3. That the Authority take the following affirmative action:

A. Offer Warholak a day-shift position as Lab Technician.

B. Pay Warholak the difference between what he would have earned as a Lab Technician and what he actually earned as a Plant Operator from November 3, 1988 until the present, plus interest in accordance with R.4:42-11.

C. 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 Authority'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.

3. Notify the Chairman of the Commission within twenty (20) days of receipt what steps the Authority has taken to comply with this order.


Richard C. Gwin
Hearing Examiner

Dated: April 3, 1992
Trenton, New Jersey

NOTICE TO ALL 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 our employees in the exercise of the rights guaranteed to them by the Act by eliminating the Lab Technician title and denying George Warholak a meaningful remedy in the arbitration of his grievance about his permanent demotion.

WE WILL cease and desist from from discriminating in regard to the tenure of employment to discourage employees in the exercise of the rights guaranteed to them by the Act by eliminating the Lab Technician title and denying George Warholak a meaningful remedy in the arbitration of his grievance about his permanent demotion.

WE WILL immediately offer George Warholak a day-shift position as Lab Technician.

WE WILL immediately pay George Warholak the difference between what he would have earned as a Lab Technician and what he actually earned as a Plant Operator from November 3, 1988 until the present, plus interest in accordance with R.4:42-11.

Docket No. CO-H-89-301

NORTHWEST BERGEN COUNTY UTILITIES AUTHORITY
(Public Employer)

Dated _____

By _____
(Title)

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 St., CN 429, Trenton, NJ 08625 (609) 984-7372.