

P.E.R.C. NO. 2007-53

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY TRANSIT CORPORATION,

Respondent,

-and-

Docket No. CO-2006-192

NEW JERSEY TRANSIT PBA LOCAL NO. 304,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies New Jersey Transit PBA Local No. 304's appeal of D.U.P. No. 2007-5. In that decision, the Director of Unfair Practices refused to issue a complaint on an unfair practice charge that the PBA filed against New Jersey Transit Corporation. The charge alleges that the employer repudiated the parties' grievance procedure by announcing that it was denying a grievance that had allegedly been granted because the employer had failed to respond at steps 2 and 3. The PBA argues that the charge presents a continuing violation because the conduct the grievance challenges continues. The Commission concludes that the alleged repudiation was a single act that took place more than six months before the filing of the charge and that it has no jurisdiction to issue a complaint on this alleged repudiation.

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, Stuart Rabner, Attorney General
(Richard W. Schleifer, Deputy Attorney General, on the
brief)

For the Charging Party, Loccke, Correia, Schlager,
Limsky & Bukosky, attorneys (Marcia J. Tapia, on the
brief)

DECISION

New Jersey Transit PBA Local No. 304 has appealed a refusal to issue a Complaint based on an unfair practice charge the PBA filed against New Jersey Transit Corporation. D.U.P. No. 2007-5, 32 NJPER 406 (¶167 2006). The Director of Unfair Practices found that the charge was untimely. We agree and deny the appeal.

The charge was filed on January 31, 2006 and amended on February 6. It alleges that on March 14, 2005, the employer repudiated the parties' grievance procedure by announcing that it was denying a grievance that had allegedly been "granted" because the employer had failed to respond at steps 2 and 3 of the grievance procedure. The grievance alleged that the employer

violated the contract when it required a PBA delegate to document attendance at a PBA State delegates' meeting. The Director found that the six-months' statute of limitations for filing a charge started to run on March 14, 2005, the day the employer notified the PBA that it was denying the grievance, and that the charge was filed after the limitations period had expired.

The PBA argues that its charge presents a continuing violation because the employer allegedly continues to require PBA delegates to present attendance verification. The employer does not specifically address that claim. Instead, it urges that we deny the appeal.

The alleged repudiation of the grievance procedure was a single act that took place on March 14, 2005, more than six months before the filing of the unfair practice charge. We thus have no jurisdiction to issue a Complaint on this alleged repudiation. N.J.S.A. 34:13A-5.4c (charges must be filed within six months of an alleged unfair practice). If the PBA believes that the employer continues to violate the contract by requiring documentation from PBA delegates, it may seek to pursue that claim through the grievance procedure.

ORDER

The refusal to issue a Complaint is sustained.

BY ORDER OF THE COMMISSION

Chairman Henderson, Commissioners Buchanan, DiNardo, Fuller and Watkins voted in favor of this decision. None opposed.

ISSUED: March 29, 2007

Trenton, New Jersey