

P.E.R.C. NO. 2007-55

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MONTCLAIR BOARD OF EDUCATION,

Respondent/Public Employer,

-and-

MONTCLAIR EDUCATION ASSOCIATION,

Docket No. CI-2006-036

Respondent/Employee Organization,

-and-

TAB COX,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies an appeal of D.U.P. No. 2007-9 filed by Tab Cox. In that case, the Director of Unfair Practices refused to issue a Complaint based on the unfair practice charge filed by Cox against the Montclair Board of Education and the Montclair Education Association. The Commission agrees with the Director that the unfair practice charge is untimely because the allegations in the charge occurred more than six months before its filing. N.J.S.A. 34:13A-5.4(c).

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/Public Employer, Genova, Burns & Vernoia, attorneys (Yaacov Brisman, of counsel)

For the Respondent/Employee Organization, Bucceri and Pincus, attorneys (Gregory T. Syrek, of counsel)

For the Charging Party, Tab Cox, pro se

DECISION

Tab Cox has appealed the decision of the Director of Unfair Practices refusing to issue a Complaint based on his unfair practice charge filed against the Montclair Board of Education and the Montclair Education Association. D.U.P No. 2007-9, ___ NJPER ___ (¶ ___ 2007). We agree with the Director that the allegations are untimely and deny the appeal.

N.J.S.A. 34:13A-5.4(c) provides that no complaint shall issue based on any unfair practice occurring more than six months

before the filing of an unfair practice charge. The February 23, 2006 charge, as amended, alleges that the Board retaliated against Cox because of a lawsuit filed in 2001 and settled in 2004. However, no act of alleged retaliation by the Board took place within the six months immediately preceding the filing of the charge. Nor are there any timely allegations that the Association did not fairly represent Cox. Even in the appeal, the most recent act of alleged improper representation took place in July 2005, more than six months before the filing of the charge.

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