

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
AND
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matters of

JOSEPH KLAG,

Appellant,

OAL DKT. NO. CSV 13237-09

-and-

AGENCY DKT. NO. 2010-985

TOWNSHIP OF NORTH BERGEN,

Respondent.

TOWNSHIP OF NORTH BERGEN,

Respondent,

PERC DKT. NO. CO-2009-364

-and-

TEAMSTERS LOCAL 11,

Charging Party.

SYNOPSIS

The Civil Service Commission and the Commission designee of the New Jersey Public Employment Relations Commission issue a Joint Order consolidating an appeal before Civil Service and an unfair practice charge before PERC for hearing before an Administrative Law Judge. The appeal and the charge both contest the removal of Township of North Bergen employee Joseph Klag. After the ALJ issues an initial decision to both agencies, PERC will determine whether protected activity was a substantial or motivating factor in the removal. The Civil Service Commission will then determine whether the removal was for legitimate business reasons and was otherwise warranted under Civil Service Law. Where appropriate, PERC will then consider whether specialized relief is warranted under its Act.

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.

P.E.R.C. NO. 2010-60

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Appearances:

For the Respondent/Respondent, Weiner Lesniak, LLP
(Mark A. Tabakin, of counsel)

For the Appellant/Charging Party, Kroll Heineman,
attorneys (Curtiss T. Jameson, of counsel)

DECISION

On August 21, 2009, Joseph Klag filed an appeal with the
Civil Service Commission ("Commission") of his removal by the

Township of North Bergen, on charges of insubordination, conduct unbecoming a public employee, neglect of duty, and other sufficient cause. The appeal was transmitted to the Office of Administrative Law as a contested case on November 16, 2009.

On April 6, 2009, Teamsters Local 11 filed an unfair practice charge with the Public Employment Relations Commission ("PERC") alleging that the Township violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., when Klag was removed in retaliation for filing a grievance. On October 23, 2009, the Director of Unfair Practices issued a Complaint in the unfair practice case.

On January 7, 2010, the parties filed motions for consolidation and a predominant interest determination. The parties agree that the actions should be consolidated. The Township argues that the Civil Service Commission has the predominant interest. The Union argues that PERC has the predominant interest.

On February 3, 2010, Administrative Law Judge Daniel B. McKeown issued an Order of Consolidation and Predominant Interest. He found that PERC has the predominant interest since the Civil Service Commission has no jurisdiction over unfair practice charges.

Having independently evaluated the record and considered the ALJ's Order, the Civil Service Commission at its meeting on March 10, 2010 and the Public Employment Relations Commission Designee, acting pursuant to authority delegated to her by the full Commission, on March 12, issue the following:

JOINT ORDER

The Civil Service Commission appeal and the Public Employment Relations Commission Complaint are consolidated for hearing before the Administrative Law Judge. The ALJ will first offer recommended findings of fact and conclusions of law to both the Public Employment Relations Commission and the Civil Service Commission, disposing of all issues in controversy through a single initial decision under N.J.A.C. 1:1-18.3 and consistent with N.J.A.C. 1:1-17.8(a); and

Upon transmittal of the initial decision to both agencies, the underlying record will be forwarded to the Public Employment Relations Commission to determine whether protected activity was a substantial or motivating factor in the removal; and

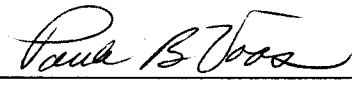
The Public Employment Relations Commission's decision and the complete record will then be sent to the Civil Service Commission, which will then determine whether the removal was for legitimate business reasons and was otherwise warranted under Civil Service Law; and

Where appropriate, the matter will be returned to the Public Employment Relations Commission for its consideration of whether specialized relief is warranted under its Act.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
MARCH 10, 2010


Robert M. Czech, Chairperson
Civil Service Commission

DECISION RENDERED BY THE PUBLIC
EMPLOYMENT RELATIONS COMMISSION
DESIGNEE ON MARCH *12*, 2010


Paula B. Voos, Commission Designee
Public Employment Relations Commission