

P.E.R.C. NO. 2015-76

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNCIL OF NEW JERSEY
STATE COLLEGE LOCALS, AFL-CIO,
Respondent,

-and-

Docket No. CI-2014-047

MARY ROMAN,
Charging Party.

SYNOPSIS

The Public Employment Relations Commission affirms the decision of the Director of Unfair Practices refusing to issue a Complaint based on an unfair practice charge filed by Mary Roman against the Council of New Jersey State College Locals, AFL-CIO. The charge alleges that the Council violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., by breaching its duty of fair representation based on how it represented her at a grievance arbitration hearing which resulted in an adverse decision. The Commission agrees with the Director that the Charging Party alleged no facts indicating the Council acted arbitrarily, discriminatorily, or in bad faith.

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, Mets Schiro and McGovern, LLP,
attorneys (Kevin P. McGovern, of counsel)

For the Charging Party, (Mary Roman, Pro Se)

DECISION

On April 30 and June 30, 2014, Mary Roman filed a charge and amended charge alleging that the Council of New Jersey State College Locals, AFL-CIO (Council) violated sections 5.4b(1) and (3)^{1/} of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1, et seq. (Act), by breaching its duty of fair representation based on the way it represented her at a grievance arbitration hearing that led to an adverse decision confirming

^{1/} These provisions prohibit employee organizations, 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) Refusing to negotiate in good faith with a public employer, if they are the majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit."

Kean University's decision not to offer her re-employment following a layoff.

On January 12, 2015, the Director of Unfair Practices issued a written decision refusing to issue a Complaint, finding that the allegations of the charge, even if true, would not constitute unfair practices on the part of the Council. D.U.P. No. 2015-10, __ NJPER __ (¶__ 2015). The Director found that Roman's allegations criticizing the Council's preparation for her grievance arbitration hearing and representation at the hearing would only establish negligent representation, but do not rise to the level of a breach of the duty of fair representation because Roman did not allege any facts indicating that the Council's actions were arbitrary, discriminatory, or in bad faith.

On January 30, 2015, Mary Roman appealed, asserting that she lost her arbitration case due to the Council's ineffectiveness as evidenced by the length of the grievance process, the information submitted at the arbitration hearing, and the incompetence of her Council representative at the arbitration hearing, who "came to the meeting unprepared, shuffling through papers with hands shaking and voice quivering."

We agree with the Director that the Charging Party has made no specific factual allegations that the Council acted arbitrarily, discriminatorily, or in bad faith. Even if Roman could show that the Council could have provided better advice,

developed a better case strategy, offered more evidence or witnesses, or provided a better representative, her allegations of ineffective or incompetent representation do not indicate bad faith, different treatment than others, or arbitrariness in the way her case was handled. Accordingly, there is no allegation that the union breached its duty of fair representation, and we sustain the refusal to issue a Complaint. Belen v. Woodbridge Tp. Bd. of Ed. and Woodbridge Fed. of Teachers, 142 N.J. Super. 486 (App. Div. 1976), citing Vaca v. Sipes, 386 U.S. 171 (1967).

ORDER

The Director's refusal to issue a complaint is affirmed.

BY ORDER OF THE COMMISSION

Chair Hatfield, Commissioners Boudreau, Jones, Voos and Wall voted in favor of this decision. None opposed. Commissioner Eskilson recused himself. Commissioner Bonanni was not present.

ISSUED: June 25, 2015

Trenton, New Jersey