

P.E.R.C. NO. 98-152

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY,

Respondent,

-and-

Docket No. CI-97-75

LAWRENCE ZAMENSKY,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission sustains the Director of Unfair Practice's refusal to issue a Complaint based on an unfair practice charge filed by Lawrence Zamensky against the State of New Jersey. The charge alleges that the State violated the New Jersey Employer-Employee Relations Act when it terminated him from his position as a senior corrections officer. The Commission finds the charge to be untimely under N.J.S.A. 34:13A-5.4c. The Commission also agrees with the Director that the charge does not allege a continuing violation of the 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.

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Appearances:

For the Respondent, Peter G. Verniero, Attorney General  
(Stephan M. Schwartz, Deputy Attorney General)

For the Charging Party, Thomas A. Belfatto, attorney

DECISION

On May 5, 1997, Lawrence Zamensky filed an unfair practice charge against the State of New Jersey. The charge alleges that the employer violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically 5.4a(1), (3), (5) and (7),<sup>1/</sup> when it terminated him from his position as a senior

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<sup>1/</sup> These provisions 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. (5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative. (7) Violating any of the rules and regulations established by the commission."

corrections officer at the Garden State Reception and Youth Correctional Facility. On May 28, PBA Local 105 joined in and adopted Zamensky's charge (CO-97-412).

On April 2, 1998, the Director of Unfair Practices dismissed the charges as untimely filed and as not alleging a continuing violation of the Act. D.U.P. No. 98-33, 24 NJPER 247 (¶29118 1998).

On April 16, 1998, Zamensky appealed the dismissal of CI-97-75. A brief chronology follows.

On July 25, 1994, Zamensky received notice of his termination. On August 2, 1994, he appealed to the Merit System Board ("MSB"). The matter was referred to the Office of Administrative Law for hearing. On November 6, 1996, the Administrative Law Judge held Zamensky's hearing in abeyance to give him the opportunity to file an unfair practice charge. On May 5, 1997, Zamensky filed a charge (CI-97-75).

Filings at other administrative agencies do not automatically toll the statute of limitations for filing an unfair practice charge. Fair Lawn Bd. of Ed., P.E.R.C. No. 84-138, 10 NJPER 351 (¶15163 1984). Contrast Kaczmarek v. New Jersey Turnpike Auth., 77 N.J. 329 (1978) (employee may have been misled in filing claim in wrong forum). Even if we were to accept Zamensky's argument that the filing of his MSB appeal tolled the six-month statute of limitations for filing an unfair practice

charge, see N.J.S.A. 34:13A-5.4c, his unfair practice charge would still be untimely. Zamensky filed his MSB appeal eight days after he received notice of his termination. He filed his unfair practice charge one day short of six months after the Administrative Law Judge held his appeal in abeyance. Thus, even if we exclude the time between the filing of the MSB appeal and the time that appeal was held in abeyance, Zamensky still took more than six months from the date of his termination to file his charge.

We also agree with the Director's finding that the charges do not allege a continuing violation of the Act. Accordingly, we sustain the refusal to issue a Complaint.

ORDER

The refusal to issue a Complaint is sustained.

BY ORDER OF THE COMMISSION



Millicent A. Wasell  
Chair

Chair Wasell, Commissioners Boose, Buchanan, Finn, Klagholz and Ricci voted in favor of this decision. None opposed. Commissioner Wenzler was not present.

DATED: June 25, 1998  
Trenton, New Jersey  
ISSUED: June 26, 1998