

P.E.R.C. No. 90-121

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

UNIVERSITY OF MEDICINE AND
DENTISTRY OF NEW JERSEY and
FRATERNAL ORDER OF POLICE,
LODGE NO. 74

Respondents,

-and-

Docket No. CI-88-90

DENNIS W. CASSIDY, SR.,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses exceptions filed by Dennis W. Cassidy, Sr. in a case involving the University of Medicine and Dentistry of New Jersey and the Fraternal Order of Police, Lodge No. 74. The procedures for exceptions do not apply since no Hearing Examiner's report has yet issued.

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Charging Party.

Appearances:

For the Respondent UMDNJ, Robert J. Del Tufo, Attorney
General (Patricia C. Valladares, Deputy Attorney General)

For the Respondent FOP, Markowitz & Richman, attorneys
(Stephen C. Richman, of counsel)

For the Charging Party, Fox & Fox, attorneys
(Dennis J. Alessi, of counsel)

DECISION AND ORDER

On June 17, 1988, Dennis W. Cassidy, Sr. filed an unfair
practice charge against the University of Medicine and Dentistry of
New Jersey ("UMDNJ") and the Fraternal Order of Police, Lodge No. 74
("FOP"). The charge alleges that UMDNJ and the FOP violated the New
Jersey Employer-Employee Relations Act, specifically subsections
5.4(b)(1) and (3),^{1/} when UMDNJ discharged him allegedly without

^{1/} These subsections prohibit employee organizations, their
representatives or agents from: "(1) Interfering with,
restraining or coercing employees in the exercise of the

just cause and when the FOP allegedly failed to pursue his grievance contesting the discharge.

On October 23, 1989, the Director of Unfair Practices refused to issue a Complaint against UMDNJ but issued a Complaint against the FOP.

On December 6, 1989, the charging party filed a Notice of Appeal with the Superior Court, Appellate Division. On April 4, 1990, the Appellate Division dismissed the appeal.

On April 16, 1990, the charging party, invoking N.J.A.C. 19:14-7.3, filed exceptions. On April 30, UMDNJ filed a reply urging dismissal of those exceptions.

N.J.A.C. 19:14-7.3 contains the procedures for filing exceptions to a hearing examiner's report and recommended decision. It does not apply since no report has yet issued.

Even if we were to treat these exceptions as an appeal under N.J.A.C. 19:14-2.3 (within ten days) or a request for special permission to appeal under N.J.A.C. 19:14-4.6(b) (within five days), they would be untimely since they were filed almost six months after the Director's decision.

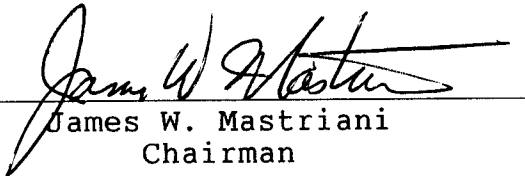
1/ Footnote Continued From Previous Page

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."

ORDER

The charging party's exceptions are dismissed.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Bertolino, Reid and Wenzler voted in favor of this decision. None opposed. Commissioner Johnson abstained from consideration. Commissioners Ruggiero and Smith were not present.

DATED: Trenton, New Jersey
June 25, 1990
ISSUED: June 26, 1990