

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NORTH BRUNSWICK TOWNSHIP BOARD OF
EDUCATION,

Respondent,

Docket No. CO-78-110-52

-and-

NORTH BRUNSWICK EDUCATIONAL SECRE-
TARIES ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies a request of the Board of Education for a stay of the Commission's decision, P.E.R.C. No. 79-14, issued on October 25, 1978. In that decision, the Commission found that the Board had committed unfair practices when it unilaterally changed the working hours of a keypunch operator and when it discriminated against her by first suspending and then discharging that employee when she objected to the change in hours and filed a grievance and later initiated the filing of the charge against the Board. The Board has filed a Notice of Appeal from the Commission's decision and order. The Commission notes that the court rules authorize application to the Appellate Division for a stay of the Commission's decision pending appeal. The request for a stay is denied.

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Appearances

For the Respondent, Borrus, Goldin & Foley, Esqs.
(Anthony B. Vignuolo, Esq.)

For the Charging Party, Mandel, Wysoker, Sherman,
Glassner & Weingartner, Esqs. (Jack Wysoker, Esq.)

DECISION AND ORDER ON APPLICATION FOR STAY

On October 25, 1978 the Public Employment Relations Commission issued its Decision and Order in the above-entitled unfair practice proceeding. This matter was filed by the North Brunswick Educational Secretaries Association against the North Brunswick Township Board of Education and alleged that the Board had committed unfair practices within the meaning of the New Jersey Employer-Employee Relations Act when it unilaterally changed the working hours of a keypunch operator and it discriminated against her by first suspending and then discharging that employee when she objected to the change in hours and when the employee filed a grievance and later initiated the filing of the instant charge against the Board. See P.E.R.C. No. 79-14, 4 NJPER ____ (¶ 1978), bearing the same caption.

In its Decision and Order, the Commission, after carefully considering the entire record, found that the Board violated the Act by suspending and then discharging the employee and we ordered that the employee be offered reinstatement and back pay to make her whole for the illegal suspension and discharge. The Board filed a Notice of Appeal from the Commission decision and order which was docketed on November 13, 1978.

On November 13, 1978 the Commission received a Notice of Motion with a supporting affidavit from the Board which requests a stay of the Decision and Order pending the decision of the Appellate Division of the Superior Court on the appeal. The Association submitted an affidavit opposing the Board's motion on November 15, 1978. The Commission has fully reviewed these submissions and hereby denies the request for a stay.

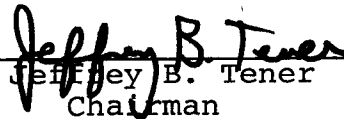
With respect to the merits of this case the violation found by this Commission involves discriminatory conduct directed at an individual's job. Having found such a violation, it is our opinion that it should be remedied as expeditiously as possible.

Moreover, pursuant to N.J.S.A. 34:13A-5.4(f) and the recent Supreme Court decision in Galloway Township Board of Education vs. Galloway Township Education Ass'n, ___ N.J. ___ (decided Aug. 1, 1978), it is appropriate for the Commission to participate in an appeal from its decision, bearing primary responsibility for seeking enforcement of its order. While the Commission in no way means to suggest that the Board will not comply with the Decision and Order if it is affirmed on appeal, it is possible that the Commission will become an active party in this appeal. Under these circumstances,

it would appear more appropriate for this application for a stay to be directed to the Appellate Division. In this regard the Commission notes that Court Rule 2:9-7 specifically authorizes applications to the Appellate Division for stays of administrative decisions pending appeal.

For all these reasons the application for a stay is denied.

BY ORDER OF THE COMMISSION


Jeffrey B. Tener
Chairman

Chairman Tener, Commissioners Hartnett and Parcels voted for this decision. None opposed. Commissioners Hipp and Schwartz abstained. Commissioner Graves was not present.

DATED: Trenton, New Jersey
December 14, 1978

ISSUED: December 14, 1978