

P.E.R.C. No. 89-69

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MATAWAN/ABERDEEN REGIONAL
DISTRICT BOARD OF EDUCATION,

Public Employer,

-and-

PACE, PROFESSIONAL AND CLERICAL
EMPLOYEES, ILGWU,

Docket No. RO-89-17

Petitioner,

-and-

MATAWAN REGIONAL TEACHERS
ASSOCIATION,

Employee Organization.

SYNOPSIS

The Chairman of the Public Employment Relations Commission, under authority delegated by the full Commission, remands to the Director of Representation the decision to block the processing of a representation petition (RO-89-17) filed by PACE, Professional and Clerical Employees, ILGWU, pending the resolution of an unfair practice charge (CO-H-88-222) filed by the Matawan Regional Teachers Association. A decision to block the processing of a representation petition should reflect the basis for such a decision. The matter is remanded to the Director for that purpose. The request for review of the Director's decision is denied. The request may be renewed after the Director issues his decision.

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MATAWAN-ABERDEEN REGIONAL SCHOOL
DISTRICT BOARD OF EDUCATION,

Public Employer,

-and-

PACE, PROFESSIONAL AND CLERICAL
EMPLOYEES, ILGWU,

Docket No. RO-89-17

Petitioner,

-and-

MATAWAN REGIONAL TEACHERS
ASSOCIATION,

Employee Organization.

Appearances:

For the Public Employer, Kenney, Kenney, Gross & McDonough,
Esqs. (Michael J. Gross, of counsel)

For the Petitioner, Lester Kushner, Esq.

For the Employee Organization, Oxfeld, Cohen, Blunda,
Friedman, LeVine & Brooks, Esqs. (Mark J. Blunda, of
counsel)

DECISION AND ORDER

On November 16, 1988, the Director of Representation blocked further processing of a representation petition (RO-89-17) filed by PACE, Professional and Clerical Employees, ILGWU ("PACE") pending the resolution of an unfair practice charge (CO-H-88-222) filed by the Matawan Regional Teachers Association ("MRTA"). On November 29 and November 30, respectively, the Matawan-Aberdeen Regional School District Board of Education ("Board") and PACE requested review of the Director's decision. The Board and PACE

object to the Director's failure to make findings of fact and conclusions of law and disagree with his decision on the merits. On December 13, the MRTA filed a statement opposing review. It claims neither PACE nor the Board have produced compelling reasons for the Commission to review the Director's decision.

In State of New Jersey, P.E.R.C. No. 81-94, 7 NJPER 105 (¶12044 1981), the Commission affirmed the application of these factors used by the National Labor Relations Board in determining whether an unfair labor practice charge should block a representation election:

The character and the scope of the charge(s) and its tendency to impair the employee's free choice; the size of the working force and the number of employees involved in the events upon which the charge is based; the entitlement and interests of the employees in an expeditious expression of their preference for representation; the relationship of the charging parties to labor organizations involved in the representation case; a showing of interest, if any, presented in the R case by the charging party; and the timing of the charge. [NLRB Case Handling Manual, Section 11730.5]

The Commission also noted the differences in procedures under our Act and the federal law which militate against any per se rule blocking elections.^{1/} Accordingly, the party seeking a block must

^{1/} The NLRB investigates and prosecutes the charges filed with it. The Commission issues a Complaint when the allegations, if true, may constitute unfair practices, and the charging party prosecutes its own Complaint. N.J.A.C. 19:14-2.1. The potential for abuse of the blocking party is greater before the Commission since a party could file a frivolous but serious sounding charge. Under NLRB practice, the Board would investigate and dismiss. Under our rule, a Complaint might issue. Thus, there is greater need here for scrutiny before a charge is given blocking effect.


submit documentary evidence that the conduct underlying the alleged unfair practices prevents a free and fair election.

The Director announced his decision in a letter to the parties. After reviewing the parties' positions, affidavits, and transcript citations, he concluded that processing of the petition should be blocked pending processing of the unfair practice charge. He did not fully articulate the basis for his decision. A decision to block the processing of a representation petition should reflect the basis for such a decision. Acting under authority granted to me by the full Commission, I remand this matter to the Director for that purpose. The request for review is preliminarily denied. The request may be renewed after the Director issues his decision.

ORDER

The Request for Review is denied.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

DATED: Trenton, New Jersey
December 19, 1988