

P.E.R.C. No. 89-103

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.

SYNOPSIS

The Public Employment Relations Commission declines to review a decision of the Director of Representation blocking further processing of a representation petition filed by PACE, Professional and Clerical Employees, ILGWU pending the resolution of an unfair practice charge filed by the Matawan Regional Teachers Association. The Commission will ordinarily defer to the Director's judgment in these cases.

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MATAWAN REGIONAL TEACHERS
ASSOCIATION,

Intervenor.

Appearances:

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

For the Petitioner, Lester Kushner and Brent Garren, Esqs.

For the Intervenor, 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 December 29, 1988, the Director explained the basis for his decision. See P.E.R.C. No. 89-69, 15 NJPER 68 (¶20025 1988).

On January 11 1988, PACE requested review of the Director's decision. It claims that the Director "side-stepped PACE's argument that the erosion of support for MRTA among the clericals stemmed from the action of the MRTA leadership, rather than any alleged unlawful actions by the Board" and "ignored 'the entitlement and interests of the employees in an expeditious expression of their preference for representation,' a factor which he is bound by law to consider."

On January 17, 1988, the Matawan-Aberdeen Regional School District Board of Education ("Board") requested review. It claims that the erosion of MRTA's secretarial support occurred before the alleged unfair practice; the unfair practice proceedings will not determine what caused the alleged erosion; the employees have a right to an expeditious election, and further delay will preclude the Board from negotiating with any representative of the secretarial unit.

On February 1, 1989, MRTA filed a statement opposing review. It claims that neither the Board nor PACE has submitted compelling reasons for reviewing the Director's blocking decision. It contends there is substantial evidence of a nexus between the Board's alleged unlawful conduct and the representation proceeding.

Requests for review will only be granted where compelling reasons exist. N.J.A.C. 19:11-8.2. This is particularly true in cases involving administrative determinations. Reasons to grant review include a substantial question of law concerning the

interpretation or administration of the Act or rules and a clear and prejudicial error on a substantial factual issue. N.J.A.C. 19:1-8.2(a).

Review is not warranted here. We will ordinarily defer to the Director's judgment in these cases. This case does not present any compelling reasons to do otherwise especially since the record before the Hearing Examiner is already closed and the unfair practice case is apparently moving toward prompt resolution.

ORDER

The requests for review are denied.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

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

DATED: Trenton, New Jersey
March 9, 1989
ISSUED: March 10, 1989