

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COMMUNICATIONS WORKERS OF AMERICA,

Respondent,

-and-

Docket No. CI-94-10

JAMES WILLIAMS,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission sustains the decision of the Director of Unfair Practices refusing to issue a Complaint based on an unfair practice charge filed by James Williams against his majority representative, the Communications Workers of America. The charge, as amended, alleges that CWA violated the New Jersey Employer-Employee Relations Act by refusing to provide its membership with an accurate listing of its audited financial records; threatening employees in writing because they questioned its expenditures; interfering with its members' ability to ratify contracts; withholding copies of its most recent contract; reimbursing its officials for questionable expenditures; and refusing to explain other expenditures. The Commission agrees with the Director that Williams' allegations involve a continuing internal union disagreement over the manner in which the union provides financial information to its members rather than any issue of unfair representation in contract negotiations or grievance processing. That disagreement must be resolved in the trial division of the Superior Court.

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, Weissman & Mintz, attorneys
(Steven P. Weissman, of counsel)

For the Charging Party, James Williams, pro se

DECISION AND ORDER

On August 16, 1993, James Williams, an Essex County food stamp worker represented by the Communications Workers of America ("CWA"), filed an unfair practice charge against CWA. On September 10, Williams filed an amended charge. See CWA (Williams), P.E.R.C. No. 94-82, 20 NJPER 81 (¶25036 1994). The amended charge alleges that CWA violated the New Jersey Employer-Employee Relations Act, specifically subsections 5.4(b)(1) and (5),^{1/} by refusing to provide its membership with an accurate listing of its audited financial records; threatening employees in writing because they questioned its expenditures; interfering with its members' ability

^{1/} These subsections prohibit employee organizations, their representatives, or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act. (5) Violating any of the rules and regulations established by the commission."

to ratify contracts; withholding copies of its most recent contract; reimbursing its officials for questionable expenditures; and refusing to explain other expenditures.

The Director of Unfair Practices processed the charge and received CWA's statement opposing it. An exploratory conference was conducted pursuant to N.J.A.C. 19:14-1.6, but no settlement agreement was reached.

On September 22, 1994, the Director refused to issue a Complaint. D.U.P. No. 95-7, 20 NJPER 417 (¶25213 1994). He concluded that CWA had no duty under the Act to provide its audited reports to its members or to provide ratification-related information absent a related violation of the duty of fair representation; any alleged violation of a CWA by-law was an internal union matter outside the Commission's jurisdiction; and the charges of alleged written threats, interference with ratification, questionable expenditures, and unexplained expenditures were not specific enough under N.J.A.C. 19:14-1.3 to warrant a Complaint.

On October 14, 1994, Williams filed a letter. He asserted that the Director's decision did not address issues discussed at the exploratory conference, including an alleged agreement by CWA to provide audited financial reports for 1990-1992.

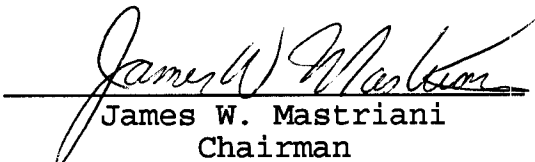
On October 17, 1994, the Chairman advised Williams that his appeal could not be processed until he served his papers on CWA. On December 12, Williams informed us that he had served the papers on CWA's attorney.

We sustain the Director's refusal to issue a Complaint. Williams has not contested the Director's rulings with respect to the amended charge's allegations and we agree with those rulings. While Williams cites an alleged agreement on one issue as part of the parties' overall discussions at the exploratory conference, the parties did not reach a settlement agreement and oral statements at an exploratory conference cannot replace a charge's written allegations for purposes of determining whether or not to issue a Complaint. In any event, Williams' allegations involve a continuing internal union disagreement over the manner in which the union provides financial information to its members rather than any issue of unfair representation in contract negotiations or grievance processing. That disagreement must be resolved in the trial division of the Superior Court. The Director properly refused to issue a Complaint.

ORDER

The refusal of the Director of Unfair Practices to issue a Complaint is sustained.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Boose, Buchanan, Finn, Klagholz, Ricci and Wenzler voted in favor of this decision. None opposed.

DATED: March 24, 1995
Trenton, New Jersey
ISSUED: March 27, 1995