

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

WALLINGFORD-SWARTHMORE :  
EDUCATION ASSOCIATION :  
 :  
v. : Case No. PERA-C-00-52-E  
 :  
WALLINGFORD-SWARTHMORE :  
SCHOOL DISTRICT :

**FINAL ORDER**

On February 23, 2000, a charge of unfair practices was filed by the Wallingford-Swarthmore Education Association (Association) against the Wallingford-Swarthmore School District (District) in which the Association alleged that the District violated Section 1201(a)(1) and (5) of the Public Employe Relations Act (Act). In support of the charge, the Association alleged that it was seeking arbitration of a grievance, that a subpoena was issued by the arbitrator for certain records of the District, and that the District refused to comply with the subpoena. The Association further alleges that it has filed an action in the Court of Common Pleas of Delaware County seeking enforcement of the subpoena under the Pennsylvania Rules of Civil Procedure.

Following review of the charge of unfair practices, the Secretary determined that a complaint would not issue on the charge of unfair practices. The Secretary reasoned that a subpoena issued by an arbitrator is enforceable in a court of appropriate jurisdiction and not by the filing of a charge of unfair practices. The Secretary relied on her prior determination in Philadelphia Housing Authority (Case No. PERA-C-98-96-E) not to issue a complaint pursuant to a similar charge of unfair practices filed for the purpose of seeking enforcement of a subpoena issued by an arbitrator in a grievance proceeding.

Timely exceptions to the decision of the Secretary declining to issue a complaint were filed by the Association on April 4, 2000. In the exceptions, the Association contends that the Secretary erred in declining to issue a complaint on the charge of unfair practices.

After review of the charge of unfair practices as amended in the exceptions, the Board shall affirm the decision of the Secretary declining to issue a complaint. As a general matter, the law is well settled that the failure of a party to the collective bargaining process to supply relevant requested information to assist the requesting party in the discharge of its collective bargaining obligations is an unfair practice under the Board's broad relevancy standard. Commonwealth of Pennsylvania v. PLRB, 527 A.2d 1097 (Pa. Cmwlth. 1987). The Board has further determined that information requested to evaluate a pending grievance or initially decide whether a grievance should be filed must be provided so long as it meets the Board's relevancy standard. Fox Chapel Educational Support Personnel Association v. Fox Chapel Area School District, 29 PPER ¶ 29094 (Proposed Decision and Order 1998). In these circumstances, the Board has asserted jurisdiction because no other means is readily available to compel provision of information necessary for the requesting party to carry out its collective bargaining responsibilities.

However, once a matter has reached the arbitration stage of the processing of employe grievances, enforcement of an arbitrator's subpoena is addressed by the Uniform Arbitration Act, 42 Pa. C.S.A. 7301-7310. The UAA provides as follows in Section 7309(a):

"Witnesses, subpoenas, oaths and depositions.

(a) General rule. - The arbitrators may issue subpoenas in the form prescribed by general rules for the attendance of witnesses and for the production of books, records, documents and other evidence. Subpoenas so issued shall be served and, upon application to the court by a party or by the arbitrators, shall be enforced in the matter provided or prescribed by law for the service and enforcement of subpoenas in a civil action."

Thus, the UAA prescribes the procedure for the enforcement of a subpoena which does not include the filing of a charge of unfair practices. Indeed, in the specification of charges, the Association alleges that it has filed an action in the Court of Common Pleas of Delaware County for enforcement of the subpoena at issue. Therefore, we believe the Secretary correctly determined that the appropriate mechanism for enforcement of the subpoena is the filing of an action in a court of appropriate jurisdiction and not through the filing of this charge of unfair practices.

We note that on prior occasion this Board has determined that certain provisions of the Uniform Arbitration Act must be read in pari materia with statutory mechanisms previously enacted, such as the Public Employee Relations Act. Chester Upland School District v. Pennsylvania Labor Relations Board, 655 A.2d 621 (Pa. Cmwlth. 1995); affd. 544 Pa. 199, 675 A.2d 1211 (1996). In Chester Upland, the Board and the Court relied on Section 7302(b) of the UAA to determine that the Board's jurisdiction over unfair labor practice charges alleging a refusal to arbitrate contract grievances survived passage of the UAA in 1980 because the provisions of the UAA vesting jurisdiction to enjoin arbitration in a court were inconsistent with the preexisting statutory mechanisms in PERA. Otherwise the later enacted provisions of the UAA vesting jurisdiction in a court would prevail. The issue presented here is distinguishable from Chester Upland because there is no prior authority of this agency (and none cited by the Association) in which the Board asserted jurisdiction over an alleged unfair practice seeking enforcement of an arbitration subpoena which could be deemed as arguably grandfathered by Section 7302(b) of the UAA. It was not the position of the Board, before or after passage of the UAA in 1980, that the refusal to honor an arbitration subpoena was an unfair practice. Accordingly, we find the enforcement mechanism set forth in the UAA to be the appropriate means of enforcement of an arbitration subpoena and not through the filing of charges of unfair practices. We therefore find that the Secretary properly dismissed the charge of unfair practices and shall dismiss the exceptions to that decision filed by the Association.

ORDER

In view of the foregoing and in order to effectuate the policies of the Public Employe Relations Act, the Board

HEREBY ORDERS AND DIRECTS

that the exceptions be and the same are dismissed and the Secretary's decision not to issue a complaint be and the same is made absolute and final.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania, pursuant to Conference Call Meeting of the Pennsylvania Labor Relations Board, John Markle, Jr., Chairman, and L. Dennis Martire, Member, this sixteenth day of May, 2000. The Board hereby authorizes the Secretary of the Board, pursuant to 34 Pa. Code § 95.81(a), to issue and serve upon the parties hereto the within Order.