

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

WILLIAM R. PRINKEY :
 :
 v. : Case No. PERA-C-99-104-W
 :
 AFSCME DISTRICT COUNCIL 84 :

FINAL ORDER

On March 1, 1999, William R. Prinkey (Prinkey) filed a charge of unfair practices against the American Federation of State, County and Municipal Employees, District Council 84 (AFSCME) in which he alleged violation of Section 1201(b)(3) and (8) of the Public Employee Relations Act (Act). In support of the charge Prinkey alleged that an arbitration award directing his reinstatement and back pay had been issued and that appeals from the award by the public employer had been dismissed and that the award had not been fully complied with. Prinkey alleges in the charge AFSCME violated the above stated provisions of the Act by its alleged failure to adequately represent him in seeking compliance with the arbitration award.

After review of the charge of unfair practices the Secretary by letter dated April 8, 1999, dismissed the charge. The Secretary determined that under Ziccardi v. Commonwealth of Pennsylvania, Department of General Services, et al., 500 Pa. 326, 456 A.2d 979 (1982) the Supreme Court of Pennsylvania determined that the Pennsylvania Labor Relations Board (Board) lacked jurisdiction over an allegation that a union has breached its duty of fair representation owed to individual members of a collective bargaining unit and that such an action should be maintained in a court of appropriate jurisdiction and not through the filing of charges of unfair practices. The Secretary further determined that a review of the charge of unfair practices did not indicate activity occurring within the four months limitations period under Section 1505 of the Act and that therefore the charge was not timely filed.

Thereafter on April 28, 1999, timely exceptions were interposed by counsel for Prinkey. In the exceptions Prinkey contends that the charge was timely filed because Prinkey had diligently pursued his interest in the matter with AFSCME throughout the four months period preceding the filing of the charge of unfair practices.

Our review of the exceptions, however, discloses no information which would overcome the dispositive decision of the Supreme Court in Ziccardi in which the court held that the PLRB lacks jurisdiction over a claim of this nature. Our review of this matter indicates that the charge of unfair practices is in the nature of violation of the duty of fair representation and falls squarely within the role announced by the Supreme Court in Ziccardi and accordingly the Board lacks jurisdiction over this charge of unfair practices.

Further, Prinkey alleges violation of Section 1201(b)(3) and (8) of the Act. Section 1201(b)(3) imposes an obligation on a collective bargaining representative to bargain in good faith with a public employer. The law is well settled that individual employees lack standing to file charges of unfair practices of this nature in that the duty is owed to the

public employer which is the only entity which has standing to file charges of this nature. PLRB v. AFSCME, 9 PPER ¶ 9088 (Nisi Decision and Order, 1978). Similarly, individual employees lack standing to file a charge of unfair practices under Section 1201(b)(8). Additionally nothing in the specification of charges discloses that AFSCME has failed to comply with the provisions of the arbitration award. Rather, it is Prinkey's contention that the arbitration award directed the public employer to reinstate him and pay him back pay and does not allege that the arbitrator directed remedial relief against AFSCME and accordingly no cause of action is stated against AFSCME under Section 1201(b)(8) of the Act.

Because we find that Prinkey has not stated a cause of action against AFSCME as under the cited provisions of the Act we do not reach the question of whether the charge of unfair practices was timely filed as contended in the exceptions.

After review of the charge, the exceptions and all matters of record, the Board shall affirm the decision of the Secretary declining to issue a complaint.

ORDER

In view of the foregoing and in order to effectuate the policies of the Public Employee 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 Members L. Dennis Martire and Edward G. Feehan, this seventeenth day of August, 1999. 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.