

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

GERI G. HOBEL :
 :
 v. : Case No. PERA-C-02-35-W
 :
 NEW CASTLE FEDERATION OF TEACHERS :

FINAL ORDER

Geri G. Hobel (Complainant) filed a Charge of Unfair Practices with the Pennsylvania Labor Relations Board (Board) on January 17, 2002, alleging that the New Castle Federation of Teachers (Respondent) violated Section 1201(b)(4) of the Public Employe Relations Act (PERA) by discriminating and retaliating against her for filing her own grievance. The Complainant's grievance arose out of the decision of the Employer, New Castle School District, to allow two teachers to switch positions, which she claimed violated the collective bargaining agreement, and precluded her from being selected for one of the positions. The Complainant alleges that she was deliberately misled by the Respondent regarding the collective bargaining agreement and the grievance procedures.

On February 13, 2002, the Secretary of the Board issued a letter advising the Complainant that no complaint would be issued on the charge. The Secretary noted that the Complainant alleged a breach of the duty of fair representation which was not actionable before the Board under Ziccardi v. Commonwealth of Pennsylvania, Department of General Services, 500 Pa. 326, 456 A.2d 979 (1982).

The Complainant filed an amended charge on March 1, 2002, which the Board construed as timely exceptions to the Secretary's February 13, 2002 decision declining to issue a complaint. In her exceptions, Complainant amends the charge as originally filed by alleging that the Respondent violated Section 1201(b)(1) of PERA when it interfered with her rights by refusing to forward her grievance to arbitration.

In Ziccardi, supra, the Pennsylvania Supreme Court held that a union's refusal to process a union member's grievance through arbitration is not an unfair practice under Section 1201(b) of PERA, but is actionable in a court of law as a breach of the union's duty of fair representation. The Complainant claims that the Respondent violated Section 1201(b) of PERA by refusing to process her grievance to arbitration. Under Ziccardi, supra, the Complainant's claims do not raise an unfair practice actionable before the Board. Accordingly, the Secretary did not err in declining to issue a complaint.

After a thorough review of the exceptions and all matters of record, the Complainant has failed to allege a cause of action before the Board, and accordingly the Board will sustain the Secretary's decision declining to issue a complaint.

ORDER

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

HEREBY ORDERS AND DIRECTS

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

SEALED, DATED and MAIL pursuant to conference call meeting of the Pennsylvania Labor Relations Board, John Markle Jr., Chairman, and L. Dennis Martire, Member, this sixteenth day of April, 2002. 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.