

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

CITY OF YORK :  
 :  
 v. : Case No. PERA-C-01-481-E  
 :  
 YORK CITY EMPLOYEES UNION :

**FINAL ORDER**

On November 5, 2001, the City of York (Employer) filed a Charge of Unfair Practices with the Pennsylvania Labor Relations Board (Board) alleging that the York City Employees Union (Union) violated Section 1201(b)(2) of the Public Employee Relations Act (PERA) by refusing to pursue informal resolution of grievances as provided in the collective bargaining agreement. The Secretary of the Board issued a letter on January 17, 2002, declining to issue a complaint, noting that the actions complained of did not rise to the level of an unfair practice. On February 6, 2002, the Employer filed timely exceptions to the Secretary's decision, arguing that the Union's actions violated the collective bargaining agreement.

Generally, when assessing the merits of a charge to determine whether a complaint should be issued, the Board accepts as true the facts alleged in the charge. A complaint will not be issued if the facts sets forth in the charge do not support an unfair labor practice as defined by PERA. Homer Center Education Association v. Homer Center School District, 30 PPER ¶130024 (Final Order, 1998).

The Employer alleged in its charge that the parties' collective bargaining agreement sets forth the method for resolving grievances, by providing that

If any employee believes that he or she has a justifiable grievance under the terms and conditions of this agreement, said employee and a Union representative should first attempt to resolve the matter informally with the immediate supervisor. Failure to so meet shall not be a bar to proceeding with the grievance procedure.

(Specification of Charges, para. 5). The Employer further alleges that "[the Union] has filed 31 grievances from January 16, 2001 to September 25, 2001, and at no time has [the Union] or any of its members attempted to resolve the matter informally with the immediate supervisor." (Specification of Charges, para. 6).

Section 1201(b)(2) of PERA provides that it is an unfair labor practice for an employe organization to engage in acts "[r]estraining or coercing a public employer in the selection of his representative for the purposes of collective bargaining or the adjustment of grievances." 43 P.S. §1101.1201(b)(2). While the charge alleges that the Union did not take its concerns initially to the employe's immediate supervisor before filing a grievance, there are no allegations indicating that once the grievance process had been

initiated, the Union interfered with the Employer's selection of a representative for discussing settlement or adjustment of the grievance. As noted in Homer Center School District, supra, the complainant must set forth the facts necessary to support the charge. Here, the Employer has not alleged facts supporting the alleged violation of Section 1201(b)(2).<sup>1</sup> Accordingly, the Secretary did not err in declining to issue a complaint.

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

SEALED, DATED and MAILED pursuant to conference call meeting of the Pennsylvania Labor Relations Board, John Markle Jr., Chairman, and L. Dennis Martire, Member, this nineteenth day of March, 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.

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<sup>1</sup> To the extent that the Employer argues in its exceptions that the Union repudiated the collective bargaining agreement, we note that the Employer has not alleged a violation of Section 1201(b)(3) of PERA. Even had a bargaining violation been alleged, we believe that the contract language quoted in the Specification of Charges is sufficient to support a sound arguable basis in the Union's position that resort to an initial informal meeting with the immediate supervisor was not a requirement before proceeding with the grievance process. See State System of Higher Education v. Association of Pennsylvania State College and University Faculties, 20 PPER ¶20125 (Final Order, 1989).