

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Labor Relations Board

BUCKS COUNTY :  
DETECTIVES ASSOCIATION :  
 :  
v. : Case No. PF-C-11-173-E  
 :  
COUNTY OF BUCKS AND THE :  
OFFICE OF THE DISTRICT ATTORNEY OF :  
THE COUNTY OF BUCKS :

**FINAL ORDER**

The Bucks County Detectives Association (Union) filed timely exceptions with the Pennsylvania Labor Relations Board (Board) on March 5, 2013, to a Proposed Decision and Order issued on February 13, 2013. The Union's exceptions challenge the Hearing Examiner's dismissal of its Charge of Unfair Practices filed against the County of Bucks and the Office of the District Attorney of the County of Bucks (collectively the County) alleging violations of Section 6(1)(a) and (e) of the Pennsylvania Labor Relations Act (PLRA), as read in *pari materia* with Act 111. The Secretary of the Board granted the Union an extension of time to file a brief in support of the exceptions, and the Union timely filed its brief on April 4, 2013. The County filed a response to the exceptions and brief in opposition to the exceptions on May 2, 2013. After a thorough review of the exceptions and all matters of record the Board makes the following

**ADDITIONAL FINDINGS OF FACT**

17. The Union filed a Charge of Unfair Labor Practices with the Board on December 23, 2011.

18. On January 1, 2012, the County implemented major medical health plan changes and prescription plan changes for the County Detectives. (N.T. 35).

**DISCUSSION**

On exceptions the Union asserts that the Hearing Examiner erred in dismissing its charge for failing to comply with the Board's pleading requirements in its Specification of Charges. The facts relevant for purposes of addressing the exceptions are summarized as follows.

The County's prescription plan is a stand-alone plan provided to County employees. (FF 8). On January 1, 2011, the County implemented changes to the major medical health plan and prescription plan for non-union and management employees. (FF 10).

In 2011 the parties participated in interest arbitration for the bargaining unit of Detectives. (FF 11). On November 18, 2011, an interest arbitration panel, with Walt De Treux, Esquire serving as the neutral panel member, issued an interest arbitration award for the County Detectives retroactively effective January 1, 2011 through December 31, 2013. (FF 13). The De Treux Award does not explicitly reference the prescription plan for bargaining unit Detectives. (FF 15).

The Union filed a Charge of Unfair Labor Practices with the Board on December 23, 2011, alleging, in pertinent part, as follows:

2. On November 18, 2011 an interest arbitration panel convened pursuant to the provisions of Act 111 issued its award providing for the terms and conditions of employment for detectives employed by the county for the period of January 1, 2011 through December 31, 2013.

3. The County did not file an appeal to this award.

4. To date, the County has failed and refused, and is failing and refusing, to fully implement all of the terms of the Award.

(FF 16 and 17). On January 1, 2012, the County implemented changes to the prescription plan for County Detectives. (FF 18). A hearing was held on the Union's Charge of Unfair Labor Practices on June 18, 2012, at which time the Union presented evidence of the implemented changes to the Detectives' prescription plan.

The Hearing Examiner found that the post-charge conduct of the January 1, 2012 unilateral changes to the Detectives' prescription benefits, that was presented as the unfair labor practice at the hearing, was not encompassed within the Union's December 23, 2011 Charge of Unfair Labor Practices alleging a failure to comply with the De Treux Award. The Hearing Examiner thus dismissed the Union's Charge for want of jurisdiction.

The Board has recognized that strict rules of pleading do not apply in administrative proceedings, but that fundamental due process requires that an employer be given notice of the factual allegations that support the charge. **Teamsters Local Union No. 384 v. Colonial School District**, 36 PPER 90 (Final Order, 2005). To satisfy this due process concern, the Board and the courts have required that the complainant specify the nature of each particular act or occurrence alleged to constitute the unfair practice charged. **Pennsylvania State Park Officers Association v. PLRB**, 854 A.2d 674 (Pa. Cmwlth. 2004), *petition for allowance of appeal denied*, 582 Pa. 704, 871 A.2d 194 (2005); **Pennsylvania State Troopers Association v. PLRB**, 30 A.3d 616 (Pa. Cmwlth. 2012); **Shoemakersville Borough Police Association v. Shoemakersville Borough**, 38 PPER 126 (Final Order, 2007). The Board has consistently held that the charging party must put the responding party on notice of the precise nature of the conduct which is at issue in the charge, and is limited to the presentation of evidence as to the specific allegations contained in the charge. *Id.*; see also **Independent State Store Union v. Commonwealth, Liquor Control Board**, 22 PPER ¶ 22009 (Final Order, 1990); **PLRB v. Lawrence County**, 12 PPER 12312 (Final Order, 1981), *aff'd*, 469 A.2d 1145 (Pa. Cmwlth. 1983); **Iroquois Education Association v. Iroquois School District**, 37 PPER 167 (Final Order, 2006).

The Union argues that the County's changes to the Detectives' prescription benefit plan are subsumed within the Union's charge alleging a failure to comply with the De Treux Award. While the Board does allow the evidence presented at a hearing to conform or clarify the facts pled in the charge, the complainant may not rely on such evidence to establish an unfair practice for conduct that has not been specifically set forth in the specification of charges. **Iroquois School District**, *supra*. Upon review of the Union's Charge, the Specification of Charges fails to mention anything concerning the Detectives' prescription benefits package and copays. Indeed, absent a timely amendment,<sup>1</sup> the December 23, 2011 Charge of Unfair Labor Practices, when filed, could not have included a claim concerning the January 1, 2012 unilateral change to the employees' prescription plan, which had not yet occurred.

The Union's Charge of Unfair Labor Practices only alleges a boilerplate failure to comply with the De Treux Award, without any factual allegations as to what wages, hours or working conditions the County was failing or refusing to implement. The evidence presented by the Union at the June 18, 2012 hearing pertained only to the County's changes to the prescription plan for the County Detectives. The Union's presentation of evidence concerning the County's post-charge, January 1, 2012 changes to the Detectives' prescription benefit package is not a mere clarification of the charge, but a wholly different cause of action not found within the specification of charges.

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<sup>1</sup> The statute of limitations for an alleged unilateral change in prescription benefits would have commenced not upon issuance of the De Treux Award, but on January 1, 2012, when the County implemented the prescription benefit plan changes for the County Detectives. Upper Gwynedd Township Police Department v. Upper Gwynedd Township, 32 PPER ¶ 32101 (Final Order, 2001).

Upon review of the exceptions and all matters of record, the County's January 1, 2012 changes to the prescription benefit plan for the County Detectives was not sufficiently set forth in the Union's Specification of Charges. As the Union's evidence at the hearing only pertained to the County's changes to the prescription plan, the Hearing Examiner did not err in concluding that the Union failed to establish that the County violated Section 6(1)(a) and (e) as alleged in the Charge of Unfair Labor Practices. Accordingly, the Union's exceptions shall be dismissed, and the Proposed Decision and Order made absolute and final.

**ORDER**

In view of the foregoing and in order to effectuate the policies of Act 111 and the Pennsylvania Labor Relations Act, the Board

**HEREBY ORDERS AND DIRECTS**

that the exceptions filed by the Bucks County Detectives Association are hereby dismissed, and the February 13, 2013, Proposed Decision and Order, be and hereby is made absolute and final.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania pursuant to conference call meeting of the Pennsylvania Labor Relations Board, L. Dennis Martire, Chairman, and James M. Darby, Member, this twenty-first day of May, 2013. 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.