

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

PENNSYLVANIA SOCIAL SERVICES UNION, :
LOCAL 668, SERVICE EMPLOYEES :
INTERNATIONAL UNION :
 :
v. : Case No. PERA-C-13-202-E
 :
LANCASTER COUNTY :

FINAL ORDER

The Pennsylvania Social Services Union, Local 668, Service Employees International Union (PSSU) filed timely exceptions with the Pennsylvania Labor Relations Board (Board) on October 9, 2013. PSSU's exceptions challenge a September 24, 2013 decision of the Secretary of the Board declining to issue a complaint and dismissing PSSU's Charge of Unfair Practices filed against Lancaster County (County).

PSSU alleged in its Charge that the County violated its duty to bargain under Section 1201(a)(1) and (5) of the Public Employe Relations Act (PERA) by refusing to meet at a mutually agreeable location to hold negotiations for a successor collective bargaining agreement. The Secretary declined to issue a complaint, stating that PSSU failed to state a cause of action under Section 1201(a)(5) of PERA, citing **PLRB v. Greater Nanticoke Area School District**, 15 PPER ¶ 15021 (Proposed Decision and Order, 1984) (disagreement between public employer and union over location of bargaining session was not a violation of employer's duty to bargain under Section 1201(a)(1) and (5)). The Secretary further stated that PSSU failed to allege sufficient facts to establish a derivative or independent violation of Section 1201(a)(1). Therefore, the Secretary dismissed the Charge.

In determining whether to issue a complaint, the Board assumes that all facts alleged are true. Issuance of a complaint on a charge of unfair practices is not a matter of right, but is within the sound discretion of the Board. **Pennsylvania Social Services Union, Local 668 v. PLRB**, 481 Pa. 81, 392 A.2d 256 (1978). A complaint will not be issued if the facts alleged in the charge could not support a cause of action for an unfair practice as defined by PERA. **Homer Center Education Association v. Homer Center School District**, 30 PPER ¶ 30024 (Final Order, 1998).

In its exceptions, PSSU alleges that the County is obligated to meet at a location that is agreed upon by both parties and that the County has refused to meet at any location other than its own offices. Section 1201(a)(5) of PERA provides that public employers are prohibited from refusing to bargain in good faith with an employe organization. 43 P.S. § 1101.1201(a)(5). The courts have held that bargaining in good faith means that the parties must make "a serious effort to resolve differences and reach a common ground." **Upper Moreland Township District v. PLRB**, 695 A.2d 904, 908 (Pa. Cmwlth. 1997) (quoting **Appeal of Cumberland Valley School District**, 483 Pa. 134, 142, 394 A.2d 946, 950 (1978)). The Board will look to the totality of the circumstances to determine whether a party has bargained in good faith. **Commonwealth Bar Association v. Commonwealth of Pennsylvania Public Utility Commission**, 35 PPER 113 (Final Order, 2004). A party will be found to have bargained in bad faith where it can reasonably be concluded that the party never intended to achieve an agreement, demonstrated unreasonableness, or displayed a single-minded purpose to thwart the public policy. **Id.**

PSSU alleged in the Charge that it requested that the parties hold negotiations for a successor collective bargaining agreement at an alleged neutral location, the Lancaster County Labor Council Building, with a cost of \$25.00 to rent the building. PSSU further alleged that the County refused to meet at the location suggested by PSSU and stated that it preferred to continue holding negotiations at the County offices, which the parties have used for many years at no cost to either party. Review of the Charge and attached e-mails of the parties indicates that neither party suggested an alternative location to

the Labor Council Building or County offices and that both parties have requested that the other party be the first to suggest another location to meet. The e-mails also indicate that the County provided PSSU with available dates for negotiations. PSSU's allegations merely demonstrate a disagreement between the parties over the location of negotiations, which does not rise to the level of an unfair practice under Article XII of PERA. **Greater Nanticoke Area School District, supra.** Further, PSSU's allegations in its Charge do not establish that the County never intended to achieve an agreement, demonstrated unreasonableness, or displayed a single-minded purpose to thwart the public policy. Therefore, PSSU has failed to state a cause of action under Section 1201(a)(5) of PERA.

Additionally, PSSU has not made any further factual allegations in its exceptions concerning its Charge under Section 1201(a)(1) of PERA. Absent new factual allegations, PSSU has failed to state a violation of Section 1201(a)(1) of PERA. Accordingly, the Secretary did not err in declining to issue a complaint and dismissing the Charge.

After a thorough review of the exceptions and all matters of record, the Board shall dismiss the exceptions and affirm the Secretary's decision 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 filed by the Pennsylvania Social Services Union, Local 668, Service Employees International Union are dismissed and the Secretary's September 24, 2013 decision not to issue a complaint be and the same is hereby 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, James M. Darby, Member, and Robert H. Shoop, Jr., Member, this nineteenth day of November, 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.