

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

TEAMSTERS LOCAL 529 :
 :
v. : Case No. PERA-C-15-42-E
 :
ELKLAND BOROUGH :

FINAL ORDER

Teamsters Local 529 (Union) filed timely exceptions and a supporting brief with the Pennsylvania Labor Relations Board (Board) on March 6, 2015. The Union's exceptions challenge a February 25, 2015 decision of the Secretary of the Board declining to issue a complaint and dismissing the Union's Charge of Unfair Practices filed against Elkland Borough (Borough).

The Union alleged in its Charge that the Mayor of the Borough refused to comply with the Borough Council's settlement of grievances regarding terms and conditions of employment of the Borough police officers. The Union asserted that the Mayor's actions were a violation of Section 1201(a)(1), (2), (5), (6), (8) and (9) of the Public Employee Relations Act (PERA).¹ In declining to issue a complaint and dismissing the Charge, the Secretary stated that the Board did not have jurisdiction over the Union's claim under PERA because collective bargaining between policemen and their public employer is covered by Act 111 of 1968, as read **in pari materia** with the private sector Pennsylvania Labor Relations Act (PLRA).²

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).

The Union alleges in its exceptions that the Secretary erred in dismissing its Charge because the Board has jurisdiction over this matter under the PLRA. Police officers employed by the Commonwealth of Pennsylvania and political subdivisions of the Commonwealth derive their bargaining rights through Act 111, which is read **in pari materia** with the PLRA in order to provide police officers with protection from unfair labor practices. **Philadelphia Fire Officers Association v. PLRB**, 470 Pa. 550, 369 A.2d 259 (1977); **Borough of Nazareth v. PLRB**, 534 Pa. 11, 626 A.2d 493 (1993). Section 301(2) of PERA specifically excludes Act 111 police officers from the definition of "public employe" and, therefore, the Board does not have jurisdiction to issue a complaint on a charge of unfair practices filed on behalf of police officers under the provisions of PERA. 43 P.S. § 1101.301(2). Although the Union alleges that the Board has jurisdiction over this matter under the PLRA, the Union did not file a Charge on the Act 111/ PLRA form setting forth the specific provisions of Section 6 of the PLRA allegedly violated by the Borough or in any way amend its Charge to bring its cause of action under the specific provisions of Section 6 of the PLRA. **See Bloom v. Philipsburg Borough**, 46 PPER 34, n.1 (Final Order, 2014) (failure to specify correct subsection allegedly violated warrants dismissal of charge of unfair practices); **see also Roman v. Shuman Juvenile Detention Center**, 39 PPER 122 (Final Order, 2008) (no cause of action stated where complainant failed to allege specific subsection and clauses violated by employer); **West Whiteland Township Police Association v. West Whiteland Township**, 32 PPER ¶ 32127 (Final Order, 2001) (same). 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.

¹ Act of July 23, 1970, P.L. 563, No. 195, as amended, 43 P.S. §§ 1101.101-1101.2301.

² Act of June 1, 1937, P.L. 1168, No. 294, as amended, 43 P.S. §§ 211.1-211.13.

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 filed by Teamsters Local 529 are dismissed and the Secretary's February 25, 2015 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, Robert H. Shoop, Jr., Member, and Albert Mezzaroba, Member, this twenty-first day of April, 2015. 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.