

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

UTILITY WORKERS UNION OF AMERICA, :
LOCAL 509 :
 :
v. : Case No. PERA-C-14-378-W
 :
SPRINGDALE BOROUGH :

ORDER DIRECTING REMAND TO SECRETARY FOR FURTHER PROCEEDINGS

The Utility Workers Union of America, Local 509 (Union) filed timely exceptions with the Pennsylvania Labor Relations Board (Board) on February 12, 2015. The Union's exceptions challenge a January 23, 2015 decision of the Secretary of the Board declining to issue a complaint and dismissing the Union's Charge of Unfair Practices filed against Springdale Borough (Borough).

In its Charge, as amended, the Union alleged that Gary Taylor (Operator (1st Shift)) and Dave Fritz (Operator (2nd Shift)) work in the Borough's water plant. The Union further alleged that the Borough violated its duty to bargain under Section 1201(a)(5) of the Public Employe Relations Act (PERA) by unilaterally changing the hours and wages of Mr. Taylor and Mr. Fritz when they were scheduled to work outside of the water plant as laborers.

The Secretary declined to issue a complaint, stating that the determination of the workload and the assignment of duties to a public employe fall within the Borough's managerial prerogative under Section 702 of PERA, citing **Joint Bargaining Committee of the Pennsylvania Social Services Union v. PLRB**, 503 Pa. 236, 469 A.2d 150 (1983), **Lincoln University Chapter of the American Association of University Professors v. Lincoln University**, 38 PPER 137 (Final Order, 2007) and **Bangor Area Education Association v. Bangor Area School District**, 33 PPER ¶ 33088 (Final Order, 2002). Therefore, the Secretary dismissed the Charge.

In its exceptions, the Union alleges that Mr. Fritz is scheduled to work as a laborer Tuesday through Thursday and as an Operator on Friday and Saturday. The Union further alleges that the Borough has consistently paid Mr. Fritz the Operator rate during the days that he works as a laborer and that the Borough has now reduced his pay for those days. The Union additionally asserts that the Borough changed the hours and wages of Mr. Taylor by scheduling him to work as a laborer on alternating weeks instead of abiding by the hours and pay agreed upon in the parties' collective bargaining agreement for the Operator (1st Shift) position. Therefore, the Union alleges that the Borough has violated Section 1201(a)(1) and (5) of PERA.

Based upon the allegations set forth in the Charge and the further clarification in the exceptions, we conclude that resolution of this Charge will best be served by a thorough examination of the factual and legal issues raised. However, the Board notes that the Union's Charge did not allege a violation of Section 1201(a)(1) of PERA. Further, the Charge asserts that the alleged unfair practice occurred on August 24, 2014. Therefore, the Union's allegation in its exceptions that the Borough violated Section 1201(a)(1) is untimely because it was raised outside the four-month statute of limitations under Section 1505 of PERA. **PSSU Local 668, AFL-CIO v. Commonwealth of Pennsylvania, Department of Labor and Industry**, 30 PPER ¶ 30090 (Final Order, 1999) (amendment to charge of unfair practices alleging additional clause was untimely where it was filed outside the four month statute of limitations); **Pennsylvania State Corrections Officers Association v. Commonwealth of Pennsylvania**, 34 PPER 32 n.2 (Proposed Decision and Order, 2003) (same). Accordingly, we are hereby remanding this matter to the Secretary with direction to issue a complaint concerning the Union's allegations that the Borough violated its duty to bargain under Section 1201(a)(5) of PERA. This order directing remand shall not be construed by the parties as a determination that the January 23, 2015 decision of the Secretary was in error.

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 this matter be remanded to the Secretary of the Pennsylvania Labor Relations Board with direction to issue a complaint.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania pursuant to conference call meeting of the Pennsylvania Labor Relations Board, L. Dennis Martire, Chairman, and Albert Mezzaroba, Member, this seventeenth day of March, 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.