

STATE OF DELAWARE
PUBLIC EMPLOYMENT RELATIONS BOARD

INTERNATIONAL UNION OF ELECTRONIC,
ELECTRICAL, SALARIED AND MACHINE
WORKERS (IUE), AFL-CIO,

Charging Party,

v.

KENT COUNTY,

Respondent.

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ULP No. 96-02-167

DENIAL OF MOTIONS

On February 15, 1996, the Respondent, Kent County, filed a Motion to Dismiss the instant unfair labor practice charge on the following grounds:

- The Complaint failed to provide all information required by PERB Regulation 5.2(c)(2) and (c)(3);
- The Complaint failed to allege grounds for any violation of 19 Del.C. §§1307(a)(1), (2), (3), (4), (6), (7) or (8); and
- The Complaint failed to establish probable cause to believe that a violation of 19 Del.C. §1307(a)(5) may have occurred.

Paragraph 2 of the Complaint establishes both the name of the Respondent, Kent County, and its address. Although the telephone number was not provided, it had no detrimental impact on the processing of this Complaint. The Respondent's Answer to the Complaint was timely filed with this Board. Consequently, technical failure by the Charging Party to include the Respondent's telephone number did not result in prejudicial harm or otherwise prejudice the Respondent.

PERB Regulation 5.1, Pleadings, states, "... the primary purpose of pleadings is the formation of issues. Consequently, all rules pertaining to pleadings shall be

liberally construed toward that end". The Respondent asserts in its Motion to Dismiss that the Complaint fails to comply with Regulation 5.2(c)(3), which requires a clear and concise statement of facts constituting the alleged unfair labor practices. The Respondent did not, however, plead inability to respond to the specific paragraphs of the Complaint in its Answer based upon any insufficiency of information provided in the Complaint. For this reason, the Respondent's assertion it found to be without merit.

The Respondent asserts that the Complaint does not provide sufficient grounds to support the allegation that violations of the cited subsections of 19 DeL.C. §1307 may have occurred. I find, based upon Regulation 5.1(a), the pleadings are sufficient to raise an issue as to whether the Respondent has engaged in conduct which violates the Public Employment Relations Act. Any specific violations which cannot be substantiated will be dismissed at the time a decision is issued in this matter. The many factual disputes which are evident at this point will be resolved by the Hearing Officer following the close of the record in this matter.

Finally, by letter dated March 5, 1996, the Respondent objects to Charging Party's amendment of its Answer to the Respondent's New Matter. The Respondent does not assert that it has been prejudiced by this amendment but rather that "The rules are the Rules are the Rules". Regulation 5.8 provides that the Board may permit the amendment of pleadings in a timely manner and where an opposing party is prejudiced by an amendment, the Board shall grant a motion of continuance. The record establishes that this amendment was filed on March 4, 1996, the Monday following the Friday, March 1, deadline, and that the original response was filed on February 28, prior to the March 1, deadline. Further, the amendment was filed more than six months prior to the September 12, 1996, scheduled hearing in this matter. For these reasons, the Respondent's objection is overruled and the Charging Party's Answer to New Matter stands as amended.

WHEREFORE, the Respondent's Motions to Dismiss ULP No. 96-02-167 are hereby denied. The hearing in this matter will proceed as scheduled on Thursday, September 12, 1996.

IT IS SO ORDERED.

/s/Charles D. Long, Jr.
CHARLES D. LONG, JR.
Executive Director
Del. Public Employment Relations Bd.

DATED: 6 September 1996