

STATE OF DELAWARE
PUBLIC EMPLOYMENT RELATIONS BOARD

FRATERNAL ORDER OF POLICE	:	
Lodge No. 15	:	
Charging Party,	:	ULP No. 98-02-225
	:	Review of Executive Director's
v.	:	Decision
	:	
CITY OF DOVER,	:	
Respondent.	:	

BACKGROUND

On June 25, 1998, the Executive Director issued his decision in the matter captioned above. On July 6, 1998, the Charging Party, Petitioner, Fraternal Order of Police Lodge No. 15 ("Petitioner") requested review of this decision by the Public Employment Relations Board ("PERB"). Pursuant to notice of a Public Meeting, the matter was considered by the PERB on August 12, 1998.

ISSUE

The scope of Petitioner's request for review is limited. It alleges that the PERB lacked authority to adopt its Rule 5.2. Rule 5.2 limits to 180 days the time within which charges of unfair labor practices may be filed following the event alleged to violate the Act.

In support of its position Petitioner argues that the PERB exceeded its authority. Petitioner proposes application to the PERB's procedures the limiting statute of three years for actions commenced upon a contract: 10 Del. C. § 8106.

DECISION

This Board finds that the Petitioner's argument falls before the decision of Atlantis 1 Condominium Association v. Bryson, 403 A2d 711 (Delaware Supr. May 23, 1979). In Atlantis 1, a consistent line of authority was examined, and the Court ruled that the authority granted to an administrative agency should be construed so as to permit the fullest accomplishment of the legislative

intent or policy. See also Kreshtool v Delmarva Power & Light Company, 310 A 2d 649 (Delaware Super. 1973), State ex rel. Massey v. Terry, 148 A 2d 102 (Del. Supr. 1959).

Naturally, the authority of the statute is not unlimited. An administrative agency may not adopt regulations which are inconsistent with provisions of enabling statutes or out of harmony with or extend the limits of the act which created it: Matter of Department of Natural Resources and Environmental Control, 401 A2d 1993 (Delaware Super. November 21, 1978)

The legislative purpose for the enabling statute (19 Del. C. § 1601) is as follows:

It is the declared policy of the State and the purpose of this chapter to promote harmonious and cooperative relationships between public employers and their employees, employed as police officers and firefighters, and to protect the public by assuring the orderly and uninterrupted operations and functions of public safety services.

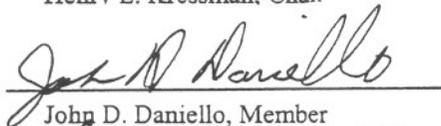
This Board believes that controversies between management and employees are best resolved when fresh. The prompt submission of unfair labor practice allegations to the PERB for disposition advances the legislative purpose in a manner consistent with the policy of the statute.

Enacting the regulation was within the authority granted to this administrative agency, and permits full accomplishment of the stated legislative intent.

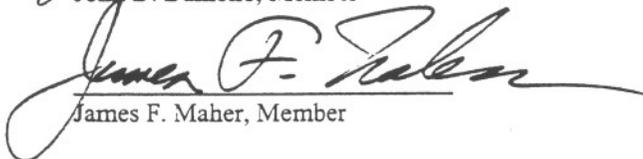
Accordingly, the Decision of the Executive Director is affirmed.



Henry E. Kressman, Chair



John D. Daniello, Member



James F. Maher, Member