

PUBLIC EMPLOYMENT RELATIONS BOARD
STATE OF DELAWARE

HARRY BRUCKNER,	:	
	:	
Charging Party,	:	
	:	
v.	:	<u>ULP No. 09-03-663</u>
	:	Order of Dismissal
STATE OF DELAWARE, DELAWARE	:	
TRANSIT CORPORATION,	:	
	:	
Respondent.	:	

BACKGROUND

The above-captioned unfair Labor Practice Charge was filed on or about February 13, 2009. The Charge alleged numerous violations of the Public Employment Relations Act (“PERA”), 19 Del.C. Chapter 13 (1994). Except for the alleged violations of §1304(b) and §1307(a)(1) and (a)(6), a Probable Cause Determination issued on September 1, 2009, dismissed all of the allegations set forth in the Charge.

Section 1304(b), provides:

§1304. Employee organization as exclusive representative.

(b) Nothing contained in this section shall prevent employees individually, or as a group, from presenting complaints to a public employer and from having such complaints adjusted without the intervention of the exclusive representative for the bargaining unit of which they are a part, as long as the representative is given the opportunity to be present at such adjustment and to make its view known, as long as the adjustment is not in consistent with the terms of an agreement between the public employer and the exclusive representative which is then in effect. The right of the

exclusive representative shall not apply where the complaint involves matters of personal, embarrassing and confidential nature, and the complainant specifically requests, in writing, that the exclusive representative not be present.

Section 1307(a) provides, in relevant part:

§1307(a) It is an unfair labor practice for a public employer or its designated representative to do any of the following:

- (1) Interfere with, restrain or coerce any employee in or because of the exercise of any right guaranteed under this chapter.
- (6) Refuse or fail to comply with any provision of this chapter or with rules and regulations established by the Board pursuant to its responsibility to regulate the conduct of collective bargaining.

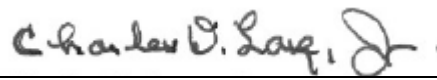
On October 27, 2009, an informal conference was held for the purpose of clarifying the circumstances supporting the alleged violations of the PERA. In attendance were the PERB Hearing Officer, Charging Party, the Local Union Vice-President and representatives from the State of Delaware and the Delaware Transit Corporation.

During the discussion it was established, without dispute, that Charging Party personally presented his complaint to four (4) different management representatives of DTC without the intervention of the Union and that he received the same answer from all four (4) without the involvement of the Union. Based upon this information, no violation of §1304(b) and §1307(a)(1) and (a)(6) of the PERA occurred.

DECISION

Consistent with the foregoing discussion, the above-captioned unfair labor practice charge is dismissed, in its entirety.

Date: October 28, 2009



Charles D. Long, Jr.,
Hearing Officer
Del. Public Employment Relations Board