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July 7, 2017

Via Email and Regular Mail

Gayl R. Mazuco, Director
Division of Representation and Unfair Practices
Public Employment Relations Commission
495 West State Street
PO Box 429
Trenton, NJ 08625-0429

**Re: CWA and the State of New Jersey
CO-**

Dear Ms. Mazuco:

Enclosed please find an original and four copies of an unfair practice charge filed on behalf of CWA in the above matter. The charge is also being filed electronically.

I hereby certify that I have served by email a copy of the charge on Yvonne Catley, Acting Director, Governor's Office of Employee Relations.

Your cooperation in this matter is appreciated.

Very truly yours,


Steven P. Weissman

c: Yvonne Catley, Acting Director, OER (via email only)
Hetty Rosenstein, NJ Director, CWA (via email only)



STATE OF NEW JERSEY
 PUBLIC EMPLOYMENT RELATIONS COMMISSION
 PO Box 429
 TRENTON, NEW JERSEY 08625-0429
UNFAIR PRACTICE CHARGE

For Courier Delivery
 495 West State St.
 Trenton, NJ 08618

www.state.nj.us/perc

Phone: 609-292-6780

Fax: 609-777-0089

		DO NOT WRITE IN THIS SPACE
		DOCKET NO.
		DATE FILED:
1. CHARGING PARTY		
Full Name: Communications Workers of America, AFL-CIO		County: Mercer
Address of Charging Party (Street and Number, City, State and Zip Code): 102 South Warren Street, Trenton, NJ 08608		
Name and Title of Representative/Attorney/Consultant to Contact: Hetty Rosenstein, NJ Director		Telephone No.: (609) 278-6588
Representative/Attorney/Consultant Address (Street and Number, City, State and Zip Code): Steven P. Weissman, Weissman & Mintz LLC, 1 Executive Drive, Suite 200, Somerset, NJ 08873		
2. RESPONDENT(S) (public employer and/or employee organization against whom the charge is made)		
Respondent 1	Full Name: State of New Jersey, Governor's Office of Employee Relations	County: Mercer
Address of Respondent (Street and Number, City, State and Zip Code): 225 West State Street, Trenton, NJ 08625		
Name and Title of Representative/Attorney/Consultant to Contact: Yvonne Catley, Acting Director		Telephone No.: (609) 292-6180
Representative/Attorney/Consultant Address (Street and Number, City, State and Zip Code):		
Respondent 2 (If Any)	Full Name:	County:
Address of Respondent (Street and Number, City, State and Zip Code):		
Name and Title of Representative/Attorney/Consultant to Contact:		Telephone No.:
Representative/Attorney/Consultant Address (Street and Number, City, State and Zip Code):		
INSTRUCTIONS FOR FILING AN UNFAIR PRACTICE CHARGE		
<p>(1) Type or clearly print all information and complete all sections of the charge.</p> <p>(2) Under "Statement of Charge," provide a CLEAR AND CONCISE statement of the facts constituting the alleged unfair practice. If you need more space for your statement, then attach it to the charge. You may not rely on other documents (such as letters or memoranda) submitted with the charge to constitute your statement.</p> <p>(3) The charge must:</p> <p style="margin-left: 20px;">a. list the subsections of the Act alleged to have been violated;</p> <p style="margin-left: 20px;">b. specify the date, and, to the extent known, the place the alleged acts occurred and the names of the persons alleged to have committed such acts.</p> <p>(4) State specifically the remedy you are asking the Commission to order.</p> <p>(5) Sign the Certification in box #6.</p> <p>(6) File an original and four copies with the Director of Unfair Practices, Public Employment Relations Commission, <i>at the above address</i>.</p> <p>(7) Include with your filing proof that you served a copy of the charge on the respondent(s). Proof can take the form of a statement explaining how, when, and on whom the charge has been served.</p>		
A CHARGE WILL NOT BE PROCESSED IF THE ABOVE REQUIREMENTS ARE NOT MET.		
3. STATEMENT OF CHARGE		
Pursuant to the New Jersey Employer-Employee Relations Act, as amended, the charging party hereby alleges that the above-named respondent(s) has (have) engaged or is (are) engaging in an unfair practice within the meaning of N.J.S.A. 34:13A-5.4(a), subsection(s) <u>1 and 5</u> and/or N.J.S.A. 34:13A-5.4(b), subsection(s) _____ in that: _____ <small>(List subsections) (List subsections)</small>		
See attached		

(See next page for additional space)

Statement of Charge Continued

4. REMEDY SOUGHT (State the remedy you request the Commission to order)

See attached

5. PLEASE ADVISE:

1) Has a grievance been filed which is based upon the same facts alleged in the charge or is otherwise related to the charge?

Yes No

If yes, what is the status of the grievance?

Grievance is pending

2) Are there any filings at PERC, in court, at the Office of Administrative Law, or before any other administrative agency which are based upon the same facts alleged in the charge or are otherwise related to the charge?

Yes No

If yes, please specify what they are. If possible, please include docket numbers.

3) Are the parties in negotiations?

Yes No

If yes, in what stage of the negotiations process are the parties (negotiations, mediation, fact-finding, super conciliation, interest arbitration)? Please include the date of the next scheduled negotiations session.

Parties are in negotiations. There is no scheduled session.

6. CERTIFICATION

I declare that I have read the above charge and that the information is true to the best of my knowledge and belief.

By


(Signature)

Counsel CWA
(Title)

Jul 7, 2017

(Date)

Statement of the Charge

1. The Communications Workers of America, AFL-CIO represents executive branch employees in the Administrative-Clerical, Professional, Primary Level Supervisory and Higher Level Supervisory negotiations units.
2. The parties' 2011-2015 collective negotiations agreements expired on June 30, 2015.
3. As a result of the Legislature and Governor failing to pass a budget for fiscal year 2018 before midnight June 30, 2017, the Governor furloughed all non-essential State employees scheduled to work on July 1, 2 and 3, 2017.
4. Non-essential State employees scheduled to work on July 1, 2 or 3, 2017 were ready, willing and able to work, but were not permitted to work as result of being involuntarily furloughed due to the shutdown of all non-essential State operations.
5. The State has announced that executive branch employees represented by CWA who were scheduled to work on July 1, 2 or 3, 2017 and who were involuntarily furloughed on those days will not be paid for the days that they were scheduled to work, but were furloughed. Employees designated as essential, but who were not required to report to work, will be treated the same as non-essential employees, and will not paid for the days they were furloughed.
6. The State has also announced that executive branch employees, who were on paid leaves on July 1, 2 or 3, 2017, utilizing paid vacation, administrative or sick leave, will not be paid for those days.
7. The State has also announced that employees scheduled to work on July 1, 2 or 3, 2017 and who were involuntarily furloughed on those days will not be eligible for overtime payments they would otherwise receive if they had been permitted to work on July 1, 2 or 3, 2017, as scheduled.
8. The above actions by the State constitute a unilateral change in terms and conditions of employment, including unilateral changes to compensation and hours of work.
9. The above actions by the State constitute a repudiation of the compensation, hours of work and leaves of absence provisions of the parties' collective negotiations agreements.
10. The above actions by the State violate subsections 5.4(a)(1) and (5) of the EERA

Remedy:

1. Declare that the State of New Jersey violated subsections 5.4(a)(1) and (5) of the EERA and direct that the State cease and desist from continuing to violate the EERA;

2. Make all employees, who were involuntarily furloughed on July 1, 2 and 3, 2017, whole for all lost compensation;
3. Make all employees, who were denied the right to use paid leave on July 1, 2 and 3, 2017, whole for all lost compensation and restore cancelled benefit time to their leave time balances;
4. Make all employees whole for overtime they would have received had they not been involuntarily furloughed on July 1, 2 and 3, 2017;
5. Direct the posting of appropriate notices; and
6. Order such other relief as appropriate and just.