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**STATE OF NEW JERSEY**

**In the Matters of Obinna I.  
Enweremadu, Susan Betram-Kieri  
and Antonette Muscaritolo**

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

**CSC DKT. NO. 2012-3561, 2012-  
3563 & 2012-3565**

**OAL DKT. NO. CSV 08941-12**

**ISSUED: NOVEMBER 19, 2014    BW**

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The appeal of Obinna I. Enweremadu, Senior Accountant, County of Union, Department of Finance, of the good faith of her layoff effective May 1, 2012, for reasons of economy and efficiency, was heard by Administrative Law Judge Jeffrey A. Gerson, who rendered his initial decision on October 17, 2014. No exceptions were filed.

It is noted that three employees appealed the good faith of their layoffs. However, Susan Betram-Kieri and Antonette Muscaritolo withdrew their appeals.

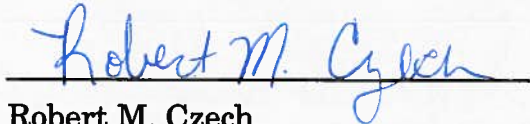
Having considered the record and the Administrative Law Judge's initial decision, and having made an independent evaluation of the record, the Civil Service Commission, at its meeting on November 19, 2014, accepted and adopted the Findings of Fact and Conclusion as contained in the attached Administrative Law Judge's initial decision.

The Civil Service Commission finds that the action of the appointing authority in laying off the appellant for reasons of economy and efficiency was justified. The Commission therefore affirms that action and dismisses the appeal of Obinna I. Enweremadu.

Re: Obinna I. Enweremadu

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
NOVEMBER 19, 2014



Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Henry Maurer  
Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Unit H  
P. O. Box 312  
Trenton, New Jersey 08625-0312

attachment



**State of New Jersey**

OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

OAL DKT. NO. CSV 08941-12

AGENCY DKT. NO. 2012-3561

**IN THE MATTER OF OBINNA I. ENWEREMADU,**

**ET AL,**

Petitioner,

v.

**UNION COUNTY DEPARTMENT OF FINANCE,**

Respondent.

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**Christopher C. Roberts, Esq.** for petitioner

**Evan M. Lison, Esq.,** for respondent (Bauch, Zucker & Hatfield, LLC, attorneys)

Record Closed: April 22, 2014

Decided: October 17, 2014

**BEFORE JEFFREY A. GERSON, ALJ:**

**STATEMENT OF THE CASE**

Obinna Enweremadu was employed by the County of Union as a Senior Accountant in the Department of Finance. In February 2012, Enweremadu was notified that, as part of a layoff plan submitted to the New Jersey Civil Service Commission, his working hours would be reduced from 35 hours per week to 15 per week. In March

2012, a layoff plan which called for hundreds of county employees to be laid off was put into action and Enweremadu's hours would have been reduced below the 20 hours necessary to qualify for health benefits.

Enweremadu, rather than accepting the part-time position offered by the county, chose to apply for retirement and began to receive his pension and full retiree health benefits. He did however appeal his layoff and claimed that the reduction in hours made as part of the layoff was done in bad faith contending that the Director of the Department of Finance and the Director of the Division of Treasury had a personal animus towards him.

### TESTIMONY

Enweremadu contended in his testimony that the reductions in hours was done in bad faith because Director Bibi Taylor knew of Enweremadu's medical condition and his reduction in hours was done deliberately to deprive him of health benefits.

In addition, Enweremadu testified that he was not allowed to snack at his desk or drink coffee away from his desk while other employees were permitted to do so and he was unjustly accused of sleeping at his desk.

Enweremadu complained to Finance Director Bibi Taylor about the changing of work hours. During his testimony however, Enweremadu conceded that the change in his time for reporting to work was not a change specifically directed at him, but was a change that applied to all members of the department. He requested special consideration from Director Taylor to allow some flexibility so he could accommodate some personal needs, but she denied his request contending that any dispensation from the required working hours would lead to innumerable requests from other employees, a situation she apparently was seeking to avoid.

Though Enweremadu contended his reduction in hours was discriminatory and generated by hostility toward his collection of medical benefits, he offered no testimony that would corroborate either. He had never previously been disciplined by Director

Taylor and he had never, prior to his layoff, contended that any of these actions were in retaliation or discriminatory.

Testifying on behalf of the County was former Director of the Division of Treasury Joseph Bowe.

Bowe testified that as part of the layoff plan Enweremadu's job functions were evaluated and it was determined that they could be completed on a part-time basis. Bowe indicated that Enweremadu's job functions were primarily the inputting of cash receipts and were not particularly time sensitive. In other words, a delay in the entry of those numbers would not be a problem.

Mr. Bowe testified that Enweremadu's medical conditions did not have any bearing upon the decision to reduce his working hours.

Mr. Bowe confirmed that Director Taylor changed the working hours and schedules of the employees, but also confirmed that those changes applied to all employees not just to Enweremadu.

There was no indication from Mr. Bowe that either he or Director Taylor had any personal animus toward Enweremadu. The decision to reduce his working hours was subject to careful analysis and though he knew it would be painful to Enweremadu, it would also be painful to all the employees affected.

Director Taylor testified that the County faced a \$35 million deficit and that there were few, if any, options other than a significant layoff.

Director Taylor indicated that the reduction in Enweremadu's hours would result in a savings of approximately \$50,000.

Director Taylor indicated that not only did the medical issues confronting Enweremadu not play a part in her decision to reduce his hours, she was not even aware of his medical condition at the time the decision was made.

Director Taylor conceded that she was aware that health benefits would be lost if hours were reduced below 20 hours, but it was not a case of personal animus against Enweremadu, but rather a focus on an extremely dire financial situation.

There was no testimony from Director Taylor, Director Bowe or Enweremadu that in any way could have corroborated Enweremadu's contention that his reduction in hours was done in bad faith.

### THE LAW

A contention that a layoff was done in bad faith requires the employee to prove by a preponderance of the evidence that the layoff was for reasons other than economy, efficiency or other related reason. In the Matter of William Campbell, City of Hoboken Layoffs, Department of Administration, OAL Dkt. No. CSV 13994-10, 2012, WL 4911050 (N.J. Admin., October 5, 2012) and N.J.S.A. 11A:8-4 and N.J.A.C. 4A:8-2.6 (c). The burden of the former employee is a substantial one since he must overcome the presumption of the validity or good faith attached to the Appointing Authority's action. Greco v. Smith 40 N.J. Super 183, 189 (App. Div. 1956); Schnipper v. North Bergen Township 113 N.J. Super 11, 14-15 (App. Div. 1951).

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

What is not in serious dispute is the fact that the County of Union faced a \$35 million deficit and that rather serious and painful layoffs were warranted. Several hundred employees were laid-off although Obinna Enweremadu was not one of them.

Enweremadu's position was reduced to part-time and his hours of employment would have resulted in a loss of medical health benefits had he accepted the part-time position. The alternative, however, would have been a layoff from his position.

Enweremadu chose to retire which resulted in not only his receipt of his pension, but full retiree medical benefits.

Enweremadu's contention that the reduction in his hours was in bad faith was unsupported and uncorroborated by any evidence presented at the hearing. The testimony of both Director Bowe and Director Taylor was not only credible, but was quite convincing and compelling. Director Taylor was confronted by a serious financial problem accompanied by directions from the Board of Freeholders requiring significant cuts in the budget. Taylor's testimony completely convinced the undersigned that there was no animus directed toward Enweremadu by Director Taylor and that her decisions were made after careful financial analysis and work related analysis.

There were no facts presented by Enweremadu that could remotely be considered corroboration of his contention that the reduction in his hours was anything other than a good faith attempt to confront a serious economic problem.

**ORDER**

It is **ORDERED** that the appeal of Obinna Enweremadu contending that his reduction in working hours was in bad faith is hereby **DISMISSED**.

I hereby **FILE** my Initial Decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, MERIT SYSTEM PRACTICES AND LABOR RELATIONS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, P.O. Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

October 17, 2014

DATE

  
\_\_\_\_\_  
JEFFREY A. GERSON, ALJ

Date Received at Agency:

10/17/14

Date Mailed to Parties:

OCT 20 2014

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DIRECTOR AND  
CHIEF ADMINISTRATIVE LAW JUDGE



**APPENDIX**

**WITNESSES**

**For Petitioner**

Obinna Enweremadu

**For Respondent**

Joseph Bowe

Bibi Taylor

**EXHIBITS**

**For Petitioner**

- P-1 Letter from Obinna Enweremadu to Bibi Taylor dated August 23, 2011 Re:  
Working Hours
- P-2 County of Union Layoff Plan
- P-3 Letter to Obinna Enweremadu from Joe Nill, Jr., Assistant Director re: Notice of  
Layoff dated April 16, 2012
- P-4 Memorandum to Obinna Enweremadu from Alfred J. Faella, County Manager  
dated March 15, 2012

**For Respondent**

- R-1 County of Union Layoff Plan
- R-2 Memorandum from Bibi Taylor, Director re: Work Hours dated July 5, 2011
- R-3 Memorandum from Bibi Taylor, Director re: County Policies