

P.E.R.C. NO. 2007-1

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY TRANSIT CORPORATION,

Petitioner,

-and-

Docket No. SN-2006-065

P.B.A. LOCAL 304,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of New Jersey Transit Corporation for reconsideration of P.E.R.C. No. 2006-89, 32 NJPER 168 (¶76 2006). In that decision, the Commission declined to restrain binding arbitration of a grievance filed by P.B.A. Local 304. The Commission concluded that while an employer has a prerogative in the abstract to conduct conferences with employees about their sick leave use, arbitration will be permitted when the record indicates that counseling conferences were in fact a form of discipline imposed for a sick leave violation already found. The Commission concludes that no extraordinary circumstances have been presented to warrant reconsideration.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

P.E.R.C. NO. 2007-2

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CAMDEN COUNTY MUNICIPAL
UTILITIES AUTHORITY,

Petitioner,

-and-

Docket No. SN-2006-063

UNITED FOOD & COMMERCIAL
WORKERS UNION, LOCAL 1360,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Camden County Municipal Utilities Authority for a restraint of binding arbitration of a grievance filed by the United Food & Commercial Workers Union, Local 1360. The grievance alleges that the Authority violated the parties' collective negotiations agreement by denying vacation requests. The Commission concludes that so long as minimum staffing levels are not compromised, the MUA could have legally agreed to permit senior operators to make last minute vacation requests that require the use of overtime to ensure coverage. Local 360 may argue to an arbitrator that such an agreement was made and has been breached.

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STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

EAST ORANGE BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2006-070

EAST ORANGE EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the East Orange Board of Education for a restraint of binding arbitration of a grievance filed by the East Orange Education Association. The grievance alleges that the Board violated the parties' collective negotiations agreement when it placed restrictions on when teachers at the Bernice L. Edmonson Community Education Center may take vacations. The Commission concludes that employee leaves are mandatorily negotiable provided the employer can meet its staffing requirements. Here, balancing the employees' interest in taking vacations when they desire, and the Board's interest in providing uninterrupted educational services to its students, the Commission concludes that the Board had a right to issue a policy generally denying teachers' vacation requests while classes are in session, subject to exceptions on a case-by-case basis. The standards for exceptions would be mandatorily negotiable and a claim that a denial was arbitrary would be legally arbitrable. The Commission holds that the Board does not have a prerogative to insist unilaterally on forfeiture of vacation days not taken by a certain date. The Commission grants the Board's request for a restraint of binding arbitration to the extent the grievance seeks to routinely permit teacher vacations while classes are in session. The request is otherwise denied.

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P.E.R.C. NO. 2007-4

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY INSTITUTE
OF TECHNOLOGY,

Petitioner,

-and-

Docket No. SN-2006-083

FOP LODGE NO. 93,

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the New Jersey Institute of Technology for a restraint of binding arbitration of a grievance filed by FOP Lodge No. 93. The grievance asserts that NJIT violated the parties' collective negotiations agreement, promotion policies, employee handbook, and affirmative action policies by denying a police officer the opportunity to participate in a promotional process for a vacant sergeant's position. The Commission grants a restraint of arbitration over the claims challenging the decision to deny the grievant a promotion and asserting that the employer discriminated in its criteria or selection. Should the FOP seek to arbitrate any allegedly procedural issue that the employer believes is not legally arbitrable, the employer may re-file its petition.

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P.E.R.C. NO. 2007-5

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RUTGERS, THE STATE UNIVERSITY,

Petitioner,

-and-

Docket No. SN-2006-086

FOP LODGE 62,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of Rutgers, The State University for a restraint of binding arbitration of a grievance filed by FOP Lodge 62. The grievance contests the termination of a police officer. The Commission holds that State v. State Troopers Fraternal Ass'n, 134 N.J. 393 (1993), and Commission cases applying that decision preclude binding arbitration of the merits of major disciplinary actions against police officers.

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P.E.R.C. NO. 2007-6

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

ATLANTIC COUNTY SUPERINTENDENT
OF ELECTIONS,

Petitioner,

-and-

Docket No. SN-2006-087

TEAMSTERS LOCAL 331,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the Atlantic County Superintendent of Elections for a restraint of binding arbitration of a grievance filed by Teamsters Local 331. The grievance alleges that eight workplace problems violated the parties' collective negotiations agreement. The Commission grants the request for a restraint to the extent, if any, the grievance seeks to require the employer to make a particular assignment. The request is otherwise denied. The employer may file a new petition, limited to a challenge to the negotiability of the assertion that management personnel is doing unit work if the arbitrator sustains that portion of the grievance and if the employer believes that the remedy would significantly interfere with its managerial prerogative.

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P.E.R.C. NO. 2007-7

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF JERSEY CITY,

Petitioner,

-and-

Docket No. SN-2006-089

JERSEY CITY POLICE SUPERIOR
OFFICERS ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the City of Jersey City for a restraint of binding arbitration of grievances filed by the Jersey City Police Superior Officers Association. The grievances concern assignment and out-of-title pay issues arising out of the reassignment of lieutenants, captains and sergeants. The Commission grants a restraint of binding arbitration to the extent the PSOA's grievances claim that the City must assign lieutenants to the day tour and to desk duty; sergeants should be reassigned from the desk to first-line supervision; sergeants at the desk are entitled to out-of-title pay; and sergeants should be paid overtime to cover first-line supervisory functions. The request for a restraint is denied to the extent the PSOA claims that lieutenants are entitled to out-of-title pay for work performed as acting captains.

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STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF BERNARDSVILLE,

Respondent,

-and-

Docket No. CO-2006-217

BERNARDSVILLE PBA LOCAL 365,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies a motion for summary judgment filed by Bernardsville PBA Local No. 365 and grants a cross-motion filed by the Borough of Bernardsville. The PBA filed an unfair practice charge against the Borough alleging that the Borough violated the New Jersey Employer-Employee Relations Act when it repudiated the parties' contract by limiting PBA convention leave to two representatives rather than three as provided for by the agreement. The Borough argues that N.J.S.A. 40A:14-177 prohibits it from allowing more than 10% of a negotiations unit's membership to take paid convention leave. The Commission holds that the Legislature set minimums and maximums and specified one set of circumstances under which a collective negotiations agreement could exceed the maximum. That exception is limited and does not apply to this case, where the PBA seeks to have three representatives rather than the two representatives authorized and required by this preemptive statute. The Commission concludes that the Borough did not violate the Act when it limited the number of paid convention leaves to two in conformance with N.J.S.A. 40A:14-177.

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STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CAMDEN COUNTY PROSECUTOR,

Respondent,

-and-

Docket No. IA-2006-066

CAMDEN COUNTY ASSISTANT
PROSECUTORS ASSOCIATION,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission grants the Camden County Prosecutor's motion to dismiss a Petition to Initiate Compulsory Interest Arbitration filed by the Camden County Assistant Prosecutors Association. The Prosecutor asserts that the assistant prosecutors are not covered by the Police and Fire Public Interest Arbitration Reform Act, N.J.S.A. 34:13A-14 et seq. The Commission finds that N.J.S.A. 34:13A-15 permits interest arbitration for employees "performing police services" and lists an extensive, although not exhaustive, list of job titles in which employees have direct, front-line responsibility for enforcement of laws, detection of legal violations, or custody of offenders. Assistant prosecutors are not included. The Commission also finds that N.J.S.A. 2A:158-1 et seq. does not specify the assistant prosecutors' duties or powers, reiterate the statutory language setting forth the prosecutor's powers, or give them police powers conferred on prosecutor's detectives and investigators. Thus, the Commission holds that while the lack of statutory police powers is not necessarily dispositive for purposes of N.J.S.A. 34:13A-15, it is consistent with the conclusion that assistant prosecutors primarily perform legal services, rather than police services. The Commission concludes that assistant prosecutors are not entitled to interest arbitration under N.J.S.A. 34:13A-15 and dismisses the Association's petition.

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P.E.R.C. NO. 2007-10

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

UNION COUNTY PROSECUTOR,

Respondent,

-and-

Docket No. IA-2006-086

UNION COUNTY ASSISTANT
PROSECUTORS' ASSOCIATION,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission grants the Union County Prosecutor's motion to dismiss a Petition to Initiate Compulsory Interest Arbitration filed by the Union County Assistant Prosecutors' Association. The Prosecutor asserts that the assistant prosecutors are not covered by the Police and Fire Public Interest Arbitration Reform Act, N.J.S.A. 34:13A-14 et seq. Applying the analysis of the duties, responsibilities, required training, and limited statutory police powers of assistant prosecutors in Camden Cty. Pros., P.E.R.C. No. 2007-9, 32 NJPER ____ (¶ ____ 2006), to the facts in this case, the Commission dismisses the Association's petition.

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