

P.E.R.C. NO. 2010-33

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matters of

COUNTY OF BURLINGTON,

Respondent,

-and-

Docket No. CO-2009-317

POLICEMAN'S BENEVOLENT ASSOCIATION,
LOCAL 249,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies Policeman's Benevolent Association, Local 249's motion for reconsideration of I.R. No. 2009-25, 35 NJPER 167 (¶63 2009). In that decision, a Commission designee denied an application for interim relief submitted by the PBA with an unfair practice charge it filed against the County of Burlington. The PBA argues that the designee applied the wrong legal standard because he acknowledged during the interim relief hearing that the PBA was likely to succeed on the merits, but denied relief because the PBA had not established a "substantial likelihood" of success on the merits. The Commission finds that the designee applied the correct standard and denies reconsideration finding that the PBA did not allege any new evidence and only argued that the Commission designee applied too stringent a standard in denying its application.

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. 2010-34

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SUSSEX COUNTY,

Respondent,

-and-

Docket No. CU-2008-005

COMMUNICATIONS WORKERS OF
AMERICA, AFL-CIO, LOCAL 1032,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission denies a request for review of D.R. No. 2010-6 filed by the Communications Workers of America, AFL-CIO, Local 1032. In that decision, the Director of Representation denied the CWA's motion to dismiss a clarification of unit petition filed by Sussex County seeking to remove alleged supervisors from a negotiations unit. The CWA argues that the petition should be dismissed because its unit predates the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. The County opposes review. The Commission holds that the CWA's appeal is interlocutory and should have been filed as a request for special permission to appeal. Nevertheless, the CWA may assert its arguments regarding the disputed titles during the administrative investigation of the clarification of unit petition.

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P.E.R.C. NO. 2010-35

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF PARAMUS,

Appellant,

-and-

Docket No. IA-2008-060

PARAMUS PBA, LOCAL NO. 186,

Respondent.

SYNOPSIS

The Public Employment Relations Commission vacates and remands an interest arbitration award to the arbitrator for reconsideration. The Borough of Paramus appealed the award arguing that: the arbitrator failed to apply the statutory factors; the arbitrator violated the standards set forth in N.J.S.A. 2A:24-8; and the award violates N.J.S.A. 2A:24-9. The PBA argues that the award meets the statutory criteria and should be affirmed. The Commission vacates and remands the award to the arbitrator for reconsideration and issuance of a new award that must explain which of the statutory factors were deemed relevant, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence on each relevant factor. The arbitrator must also consider the total net annual economic change for each year of the agreement. The arbitrator's new award is due within 30 days of the Commission decision.

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P.E.R.C. NO. 2010-36

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF HUNTERDON,

Respondent,

-and-

Docket Nos. RO-2009-039

RO-2009-044

AFSCME COUNCIL 73,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission grants the County of Hunterdon's request for review of D.R. No. 2010-1 which certified AFSCME Council 73 as the majority representative of two units in the County comprised of five primary level executives and 17 secondary level executives. The County argues that the primary level executives are all managerial executives and 14 of 17 employees in the secondary unit are also managerial executives. AFSCME opposes review. The Commission remands the petitions for further administrative processing because, on the current record, it is unclear what information the parties were advised to submit to support their positions.

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P.E.R.C. NO. 2010-37

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF NORTH BERGEN,

Respondent,

-and-

Docket No. RO-2009-071

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 701,

Petitioner.

SYNOPSIS

In a case of first impression, the Public Employment Relations Commission grants the International Brotherhood of Teamsters, Local 701's request for review of the Director of Representation's decision declining to certify it as the majority representative of the non-supervisory EMTs employed by the Township of North Bergen based on authorization cards. The Director declined to certify Local 701 and directed an election instead because ten employees rescinded their authorization cards. Local 701 argues that the Commission has never considered the effect of revoking authorization cards and the Director erred when he declined to certify the unit. The Township opposes review. The Commission holds that it will permit employees to revoke authorization cards prior to certification and that the Director's ordering of an election was a reasonable exercise of his discretion. Allegations of employer misconduct will be litigated in a related unfair practice case.

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P.E.R.C. NO. 2010-38

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BURLINGTON COUNTY COLLEGE,

Petitioner,

-and-

Docket No. SN-2009-040

BURLINGTON COUNTY COLLEGE
FACULTY ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission decides the negotiability of portions of an expired collective negotiations agreement between Burlington County College and the Burlington County College Faculty Association. The County argued that current provisions regarding performance evaluations; course evaluations; observations; technology; evaluation conferences; video-taped observations; distance learning; work assignments; overload; and non-teaching duties are not mandatorily negotiable. The Association opposed the petition arguing that it was premature since the parties' grievance procedure ends in advisory arbitration and thus can address disputes over non-mandatory subjects unless preempted. The Commission holds that the petition is not premature because restrictions on the exercise of a managerial prerogative are not subject to mandatory negotiations. The Commission further holds that all of the disputed language is not mandatorily negotiable except for the distance learning committee and non-teaching duties.

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P.E.R.C. NO. 2010-39

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF EDISON,

Petitioner,

-and-

Docket No. SN-2009-042

PBA LOCAL 75 (SUPERIORS),

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the Township of Edison's request for a restraint of binding arbitration of a grievance filed by PBA Local 75 (Superiors). The grievance contends that the Township violated the parties' collective negotiations agreement when it issued a policy permitting the senior sergeant on duty to serve as the Watch Commander rather than call in a lieutenant on an overtime basis to fill the post. The grievance further contends that by unilaterally changing the replacement procedure for the post, the Township has wrongfully eliminated overtime opportunities for lieutenants and acting lieutenant's pay for sergeants serving as Watch Commander. The Commission grants a partial restraint of arbitration holding that the Township has a managerial prerogative to determine the rank qualifications for the Watch Commander position, but the PBA may pursue claims that the City should first use lieutenants on overtime to fill vacant Watch Commander positions and that sergeants performing that task are entitled to lieutenants pay.

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P.E.R.C. NO. 2010-40

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF HOBOKEN,

Petitioner,

-and-

Docket No. SN-2009-053

HOBOKEN MUNICIPAL SUPERVISORS
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the City of Hoboken's request for a restraint of binding arbitration of a grievance filed by the Hoboken Municipal Supervisors Association. The grievance asserts that the City's Chief Financial Officer is entitled to overtime pay for attendance at City Council meetings. The City argues that the CFO is not in the Association's negotiations unit. The Commission holds that the dispute over the reach of the existing contractual recognition clause does not present a negotiability dispute and the arbitrator may determine if the CFO is included in the unit and, if so, whether he is entitled to the claimed overtime compensation.

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P.E.R.C. NO. 2010-41

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF STAFFORD,

Petitioner,

-and-

Docket No. SN-2009-059

TEAMSTER LOCAL 97 OF NEW
JERSEY, I.B.T.,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Township of Stafford's request for a restraint of binding arbitration of a grievance filed by Teamsters Local 97 of New Jersey, I.B.T. The grievance alleges that an employee was denied a promotion in violation of the seniority article of the parties' collective negotiations agreement. The Township argues that at the time of the promotion, the grievant was on workers' compensation and not available for promotion. The Commission holds that the issue of whether the grievant was eligible for promotion while out on workers' compensation is an issue that can be considered by the arbitrator.

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