



STATE OF NEW JERSEY
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May 30, 2018

TO: Commissioners
FROM: Counsel Staff
RE: Developments in the Counsel's Office Since April 19, 2018

COMMISSION CASES

No new appeals.

Court Decisions

Arbitrator could resolve recognition clause dispute related to holiday pay

In re Borough of Milltown, 2018 N.J. Super. Unpub. LEXIS 1044 (DKT NO. A-1306-17T1)

The Appellate Division of the Superior Court, in an unpublished decision, affirms P.E.R.C. No. 2018-015 allowing arbitration of a recognition clause dispute bearing on whether certain Borough employees were entitled to contractual holiday pay. The employer argued that the employees seeking holiday pay were not part of the collective negotiations unit and therefore the majority representative could not file or arbitrate a grievance on their behalf, the Court responded that "The question of whether the employees are covered under the CNA's recognition clause is for the arbitrator to decide."

Other Cases

Use of Family Leave Equivalent to Use of Sick Leave re eligibility for bonus

Policemen's Benevolent Ass'n, Local 277 v. Camden Cty. Bd. of Chosen Freeholders & Sheriff, 2018 N.J. Super. Unpub. LEXIS 949 (Dkt. No. A-0497-16T1)

The Appellate Division of the Superior Court, in an unpublished decision, affirms a grievance arbitration award finding that the employer properly determined that employees who used Family Medical Leave Act benefits were not eligible for additional vacation leave based on contract language stating that employees who used no sick leave during a given period of time would receive an additional vacation day. The arbitrator agreed that using FMLA benefits were the equivalent of using sick leave.

Under same CBA language male retiree received health benefits that were denied to female

Cosimano v. Twp. of Union, 2018 U.S. Dist. LEXIS 65168 (Civil Action No.: 10-cv-5710)

The United States District Court for the District of New Jersey denies Union Township's motion for judgment as a matter of law after a federal jury had awarded Cosimano, a female police officer \$341, 804.00 to compensate her for the Township's violation of New Jersey's Law Against Discrimination prohibiting gender discrimination. The Township had awarded a male officer full lifetime retirement healthcare benefits, but denied the same benefits to Cosimano. The Court found it significant that both officers were covered by identical language in the collective bargaining agreement.