

P.E.R.C. NO. 2008-51

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF NORTH CALDWELL,

Respondent,

-and-

Docket No. CI-2007-013

WILLIAM McDANIEL,

Charging Party.

TEAMSTERS LOCAL NO. 469,

Respondent,

-and-

Docket No. CI-2007-012

WILLIAM McDANIEL,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission remands to the Director of Unfair Practices for further proceedings two unfair practice charges filed by William McDaniel against Teamsters Local No. 469 and the Borough of North Caldwell. The Director refused to issue Complaints and dismissed the charges. D.U.P. 2008-4. McDaniel appealed the Director's decision. The Commission holds that under N.J.S.A. 34:13A-5.4(c), the unfair practice charges are untimely on their face. However, the Commission finds that if the charging party can prove that the delay was caused by Local 469's breach of the duty of fair representation, he might be able to overcome the timeliness bar.

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. 2008-52

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY TRANSIT,

Respondent,

-and-

Docket No. CI-2008-001

THEODORE WARFIELD,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission sustains the decision of the Director of Unfair Practices refusing to issue a Complaint based on an unfair practice charge filed by Theodore Warfield against New Jersey Transit. D.U.P. No. 2008-5. The charge alleges that NJ Transit violated the New Jersey Employer-Employee Relations Act when its representatives disciplined Warfield for poor performance. Specifically, Warfield alleges that he was written up for not completing a work assignment that he allegedly stated was unsafe. Warfield appealed the Director's decision asserting that the employer has the burden of proof in disciplinary disputes and he contends that he identified several Commission rules that the employer violated. The Commission holds that it does not adjudicate disciplinary disputes and that neither the charge nor the appeal identify the rules alleged to have been violated. The Commission sustains the refusal to issue a Complaint.

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P.E.R.C. NO. 2008-53

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Respondent,

-and-

Docket No. CO-2007-105

NEWARK POLICE SUPERIOR
OFFICERS' ASSOCIATION

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies the City of Newark's motion for reconsideration and clarification of P.E.R.C. No. 2008-034. In that decision, the Commission granted the Newark Police Superior Officers' Association's motion for summary judgment on an unfair practice charge it filed against the City. The charge alleged that the City violated the New Jersey Employer-Employee Relations Act when it repudiated a settlement agreement resolving a vacation grievance. The Commission denied the City's cross-motion on that charge and held that the City could not unilaterally rescind a grievance settlement reached by its police director under the negotiated grievance procedure. Such rescission repudiates the grievance procedure and violates the Act. The Commission holds that there are no extraordinary circumstances warranting reconsideration. The City is bound by the police director's decision. Any ongoing disagreement over what the settlement agreement says can be resolved through the parties' negotiated grievance procedure. The City also objected to the language of the Notice to Employees ordered to be posted arguing that the notice should be directed at SOA members only, not all City employees. Absent objection from the SOA, the Commission grants the City's request and limits the posting to the police department.

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P.E.R.C. NO. 2008-54

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF PASSAIC,

Petitioner,

-and-

Docket No. SN-2008-026

COMMUNICATIONS WORKERS OF AMERICA
AFL-CIO, LOCAL 1032,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the County of Passaic's request for a restraint of binding arbitration of a grievance filed by the Communications Workers of America, Local 1032, AFL-CIO. The grievance seeks to enforce a contractual clause that allegedly entitles a senior detention officer at the Passaic County Youth Reception and Rehabilitation Center to be paid for a five-week suspension. The Commission holds that no pertinent statute or regulation, nor any decision applying them, preempts CWA and the County from entering an agreement providing that employees who are suspended pending disciplinary or criminal investigations will suffer no loss in pay until final determinations of their status. No such agreement significantly interferes with the ability of the employer or outside agency to pursue disciplinary or criminal actions against employees.

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P.E.R.C. NO. 2008-55

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MATAWAN-ABERDEEN REGIONAL
BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2008-035

MATAWAN-ABERDEEN TEACHERS'
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Matawan-Aberdeen Regional Board of Education for a restraint of binding arbitration of a grievance filed by the Matawan-Aberdeen Teachers Association. The grievance contests the Board's decision to use the math and science faculty room as a classroom and to have the math and science faculty share the world language and business faculty room. The Commission holds that this dispute involves the question of whether there is a contractual requirement for a separate math and science faculty room and the viability of proposed alternatives. These issues go to the merits of the grievance and must be made to an arbitrator. Should the arbitrator issue a remedy that the Board believes would require a major capital expense or significantly interfere with its educational objectives, it may re-file its scope petition.

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P.E.R.C. NO. 2008-56

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF CLOSTER,

Petitioner,

-and-

Docket No. SN-2008-054

P.B.A. LOCAL 233,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of a work schedule issue raised by P.B.A. Local 233 in negotiations with the Borough of Closter for inclusion in a successor collective negotiations agreement. The Commission holds that work schedules are normally mandatorily negotiable and that there are exceptions to the negotiability rule when facts prove a particularized need to preserve or change a work schedule to effectuate a governmental policy. The Commission does not discount the employer's concerns but decides only that they are not so compelling and so incontrovertible to warrant cutting off the negotiations and interest arbitration process. The parties may present their concerns to the interest arbitrator for consideration based on the statutory criteria.

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