

P.E.R.C. NO. 2009-7

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PBA LOCAL 351-A (SOA),

Respondent,

-and-

ANTHONY PIZARRO,

Docket No. CI-2007-024

CI-2007-026

CI-2007-027

Charging Party.

SYNOPSIS

The Public Employment Relations Commission grants a Motion for Summary Judgment filed by PBA Local 351-A (SOA) seeking dismissal of unfair practice charges filed against the SOA by Anthony Pizarro. The unfair practice charges allege that the SOA, through its president, violated the New Jersey Employer-Employee Relations Act. The SOA has submitted certifications in support of its motion. The charging party objected to the motion and requested a hearing on the charges. However, no rebuttal to the SOA's certification and/or brief or certification setting forth specific facts and showing that there is a genuine issue for hearing was submitted by the charging party. Accordingly, the Commission dismisses all three unfair practice charges.

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. 2009-8

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF HUDSON,

Respondent,

-and-

Docket No. CI-2007-032

PATRICK DESMOND and
ANTHONY LOPEZ,

Charging Parties.

SYNOPSIS

The Public Employment Relations Commission affirms a motion to dismiss an unfair practice charge filed by Patrick Desmond against the County of Hudson. The charge was initially filed by Desmond and Anthony Lopez, but a hearing examiner granted Lopez's request to withdraw from the charge. The Commission affirms the granting of the County's motion to dismiss, but without the sanctions recommended by the hearing examiner. The Commission dismisses the Complaint for lack of prosecution.

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P.E.R.C. NO. 2009-9

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

FOP LODGE 12,

Respondent,

-and-

Docket No. CI-2008-015

SHARON DAVIS,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission remands an unfair practice charge to the Director of Unfair Practices for further processing. The charge was filed by Sharon Davis against FOP Lodge 12 alleging that the FOP violated the New Jersey Employer-Employee Relations Act by unlawfully refusing to provide her satisfactory legal counsel or union representation throughout internal departmental hearings and before the Office of Administrative Law relating to disciplinary charges. The charging party also alleges that this lack of representation resulted in her termination. Because an allegation was made that the FOP provided counsel to other members that, if true, might constitute an unfair practice, the Commission remands the case to the Director for issuance of a Complaint on that allegation.

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P.E.R.C. NO. 2009-10

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

COUNTY OF BURLINGTON,

Public Employer,

-and-

NEW JERSEY STATE PBA LOCAL 203,

Docket No. RO-2007-089

Petitioner,

-and-

COMMUNICATIONS WORKERS OF AMERICA,
LOCAL 1034,

Intervenor.

SYNOPSIS

The Public Employment Relations Commission granted requests for review of D.R. No. 2008-10 made by the County of Burlington and Communications Workers of America, Local 1034. The New Jersey State PBA Local 203 filed a petition to represent assistant superintendents and apprentice superintendents employed in the County's Weights and Measures Department. In D.R. No. 2008-10, the Director of Representation directed an election to sever these weights and measures employees from the existing non-law enforcement unit represented by CWA. At the request of the parties, the Commission issued a stay of the election pending review. The Commission holds that under Warren Cty., P.E.R.C. No. 86-111, 12 NJPER 357 (¶46 2008), given their statutory power to arrest, weights and measures employees are police within the meaning of the Act. The Commission orders the stay dissolved and the case remanded for proceedings in accordance with this decision.

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P.E.R.C. NO. 2009-11

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF MERCER,

Petitioner,

-and-

Docket No. SN-2008-063

P.B.A. LOCAL 167, MERCER
COUNTY CORRECTIONAL OFFICERS,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the County of Mercer for a restraint of binding arbitration of a grievance filed by P.B.A. Local 167. The grievance asserts that the yard towers at the Mercer County Correction Center violate the contractual safety and health clause and State regulations. The Commission holds that this health and safety issue is legally arbitrable.

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P.E.R.C. NO. 2009-12

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF HOBOKEN,

Petitioner,

-and-

Docket No. SN-2008-065

HOBOKEN MUNICIPAL EMPLOYEES
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the City of Hoboken for a restraint of binding arbitration of a grievance filed by the Hoboken Municipal Employees Association. The grievance claims that a work assignment violated an employee's seniority. The Association has not asserted any basis to deviate from the case law holding that employers generally have a managerial prerogative to assign regular job duties during normal work hours and restrains arbitration.

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P.E.R.C. NO. 2009-13

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF TRENTON,

Petitioner,

-and-

Docket No. SN-2008-076

P.B.A. LOCAL NO. 11,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies, in part, the request of the City of Trenton for a restraint of binding arbitration of a grievance filed by P.B.A. Local No. 11. The grievance alleges that the City violated the contract by routinely assigning mandatory overtime without declaring an emergency or first soliciting volunteers. The Commission holds that the PBA may arbitrate the portion of its grievance seeking to have overtime assigned first to volunteers as part of an overall allocation system. However, to protect against any substantial limitations on the employer's managerial interests, the Commission restrains arbitration to the extent the PBA claims that the City must declare an emergency under N.J.S.A. 40A:14-134 before it may deviate from an overtime allocation system.

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P.E.R.C. NO. 2009-14

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF NORTH ARLINGTON,

Petitioner,

-and-

Docket No. SN-2008-077

NORTH ARLINGTON POLICEMEN'S
BENEVOLENT ASSOCIATION, LOCAL NO. 95,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Borough of North Arlington for a restraint of binding arbitration of a grievance filed by the North Arlington Policemen's Benevolent Association, Local No. 95. The grievance seeks compensation for work in a higher rank. The Commission holds that a claim that a police officer has been performing the duties of a higher rank and is entitled to receive additional compensation is severable from the decision to assign those duties and is legally arbitrable.

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P.E.R.C. NO. 2009-15

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF EAST RUTHERFORD,

Petitioner,

-and-

Docket No. SN-2008-079

EAST RUTHERFORD P.B.A. LOCAL 275,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Borough of East Rutherford for a restraint of binding arbitration of a grievance filed by East Rutherford P.B.A. Local 275. The grievance challenges increases in co-payments for NJPLUS and HMO office visits under the State Health Benefits Program and seeks reimbursement of additional co-pay costs and a return to negotiated co-pay levels. The Commission holds that the level of health benefits is generally negotiable. The Commission declines to restrain arbitration at this juncture, but will permit the Borough to refile its petition should the arbitrator find a contractual violation and a dispute arise over the negotiability of any remedy issued.

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P.E.R.C. NO. 2009-16

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY
(DEPARTMENT OF TRANSPORTATION),

Respondent,

-and-

Docket No. CI-2007-065

JANE LYONS,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission remands an unfair practice charge to the Director of Unfair Practices for further processing. The charge was filed by Jane Lyons against the State of New Jersey (Department of Transportation) alleging that the State violated the New Jersey Employer-Employee Relations Act. The Director refused to issue a Complaint on Lyons' charge and dismissed the unfair practice charge. He found her claim that she was unlawfully reassigned to be untimely, her discrimination claims and allegations of discipline to be outside the Commission's jurisdiction, that she had not claimed a breach of the duty of fair representation, no facts suggested a violation of N.J.S.A. 34:13A-5.4a(3) and derivatively a(1) of the Act and that she had not identified any Commission rule that had been violated. The Commission finds that Lyons' charge was timely filed within six months of the date she became aware that her reassignment was permanent. The Commission remands the charge to the Director to afford Lyons one last opportunity to amend the charge to clarify her allegations that her reassignment was in retaliation for complaints, whether the complaints constitute protected activity, and whether the State refused to accept her grievances. The Director may then reassess whether those allegations, if true, might constitute a violation of the Act.

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