

P.E.R.C. No. 2009-69

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 amended unfair practice charge to the Director of Unfair Practices for complaint issuance. The initial 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 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. In P.E.R.C. No. 2009-16, 34 NJPER 291 (¶104 2008), the Commission held that Lyons's charge was timely filed and remanded the case 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. Lyons amended her charge alleging that she was retaliated against for filing complaints and grievances about the workplace and that the State refused to process her grievances. The Director refused to issue a complaint finding that nowhere in the charge was there an allegation of discrimination, retaliation or adverse employment action based on activity protected by the Act or that the amended charge alleged specific facts and dates supporting Lyons's allegation that the State refused to accept her grievances. The Commission remands the charge to the Director for complaint issuance on the 5.4a(1) and (3) allegations holding that Lyons has alleged sufficient facts that, if true, might constitute an unfair practice.

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. 2009-70

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

OLD BRIDGE TOWNSHIP FIRE
DISTRICT #2,

Petitioner,

-and-

Docket No. CU-2008-013

OLD BRIDGE TOWNSHIP CAREER FIRE
FIGHTERS ASSOCIATION,
LOCAL 3311, IAFF,

Employee Organization.

SYNOPSIS

The Public Employment Relations Commission grants the Old Bridge Township Career Fire Fighters Association, Local 3311, IAFF's request for review of D.R. No. 2009-13, ___ NJPER ___ (¶ ___ 2009). The Director of Representation had granted a petition of the Old Bridge Township Fire District #2 and clarified a negotiations unit to exclude the secretary to the Board of Fire Commissioners as a confidential employee. The IAFF argues on appeal that a factual dispute among the witnesses raises a material issue that should have been resolved based on a hearing record, rather than an administrative investigation. The Commission holds that there is a factual dispute as to the secretary's duties and the Director's ruling may have resulted in prejudicial error. The Commission remands the case to the Director of Representation for an evidentiary hearing.

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P.E.R.C. NO. 2009-71

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CARTERET BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2009-026

CARTERET EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of several provisions in an expired collective negotiations agreement between the Carteret Board of Education and the Carteret Education Association. The Commission finds mandatorily negotiable provisions concerning the dress code and derogatory material. The Commission finds not mandatorily negotiable a provision regarding sick leave verification; a provision requiring employees to submit verification of their relationship to the deceased when requesting bereavement leave; a provision that limits the number of confidential employees in the unit; a Board proposal regarding evaluation criteria; a portion of the provision regarding extended sick leave; a portion of a provision regarding sick leave for family member's illness; and portions of the provisions regarding temporary employees and substitutes.

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. P.E.R.C. NO. 2009-72

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HUDSON COUNTY,

Petitioner,

-and-

Docket No. SN-2009-035

DISTRICT 1199J, NUHHCE, AFSCME, AFL-CIO,

Respondent.

SYNOPSIS

District 1199J, NUHHCE, AFSCME, AFL-CIO, petitioned for a scope of negotiations determination seeking a determination that the subject of a grievance arbitration award is legally arbitrable. The grievance alleged and the arbitrator concluded that the County of Hudson violated its collective negotiations agreement with District 1199J when it refused to transfer an employee. This petition was filed after the Appellate Division of the Superior Court ordered that actions to vacate and confirm the arbitration award be transferred to the Public Employment Relations Commission "for consideration of the parties' respective arguments" concerning the scope of negotiations. The Commission holds that the arbitrator's award is not legally arbitrable to the extent the arbitrator found that Hudson County violated the parties' agreement by applying a different standard in considering the grievant's request for a reassignment. The Commission finds that the arbitration award is legally arbitrable to the extent the arbitrator found that the County violated the contract when it did not follow the procedures set out in N.J.A.C. 4A:4-7.7 when disciplining the grievant.

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P.E.R.C. NO. 2009-73

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RUMSON-FAIR HAVEN REGIONAL
BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2009-037

RUMSON-FAIR HAVEN REGIONAL
EMPLOYEES ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission restrains binding arbitration of a grievance filed by the Rumson-Fair Haven Regional Employees Association. The grievance contests the withholding of a teacher's salary and adjustment increments. The Commission finds that the withholding was based predominately on the evaluation of teaching performance and any challenge to the withholding must be filed with the Commissioner of Education.

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P.E.R.C. NO. 2009-74

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY
(DIVISION OF STATE POLICE),

Petitioner,

-and-

Docket No. SN-2009-048

STATE TROOPERS NON-COMMISSIONED
OFFICERS ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the State of New Jersey's (Division of State Police) request for a restraint of binding arbitration of a grievance filed by the State Troopers Non-Commissioned Officers Association. The grievance challenges the transfer of a sergeant allegedly as a result of a disciplinary action taken without due process. The Commission restrains arbitration over the decision to transfer the grievant. The Commission notes that the Association did not identify any specific procedural issues in its grievance, demand for arbitration, or brief.

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