

P.E.R.C. NO. 99-70

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

OCEAN COUNTY SHERIFF,

Public Employer,

-and-

OCEAN COUNTY SHERIFF'S OFFICERS,
FOP LODGE NO. 135,

Docket No. RO-98-82

Petitioner,

-and-

PBA LOCAL 258,

Intervenor.

OCEAN COUNTY SHERIFF,

Public Employer,

-and-

OCEAN COUNTY SHERIFF'S SUPERIOR
OFFICERS, FOP LODGE NO. 135,

Docket No. RO-98-83

Petitioner,

-and-

PBA LOCAL 258 (SUPERIORS),

Intervenor.

SYNOPSIS

The Public Employment Relations Commission dismisses representation petitions filed by Ocean County Sheriff's Officers, FOP Lodge No. 135 and Ocean County Sheriff's Superior Officers, FOP Lodge No. 135. The FOP seeks to sever sheriff's officers from an existing unit containing corrections officers and represented by PBA Local 258. The FOP also seeks to sever sheriff's superior officers from an existing unit containing corrections superior officers and sheriff's superior officers. The Director of Representation, concluding that the Commission has consistently severed employees from existing units whenever there has been separate employer status, directed that an election be conducted among sheriff's officers and sheriff's superior officers. However, the Commission, on balance, does not believe that the

reasons for severing sheriff's officers and sheriff's superior officers from these multi-employer units outweigh the reasons for maintaining the units. There is a strong community of interest between sheriff's and corrections

officers and that fact, added to the long history of multi-employer negotiations, the willingness of the employers and the current majority representatives to continue the present unit structure, and the proliferation of negotiations units that could occur should severance be granted, leads the Commission to hold that the current units remain the appropriate units for collective negotiations.

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. 99-71

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

EAST HANOVER BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-H-98-42

EAST HANOVER EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against the East Hanover Board of Education. The Complaint was based on an unfair practice charge filed by the East Hanover Education Association alleging that the Board violated the New Jersey Employer-Employee Relations Act by refusing to pay annual incremental salary increases to non-certificated personnel after the expiration of the parties' collective negotiations agreement. A Hearing Examiner, applying precedent requiring an employer to maintain the status quo during successor contract negotiations, and rejecting the argument that Neptune Tp. Bd. of Ed. v. Neptune Tp. Ed. Ass'n, 144 N.J. 16 (1996) should be extended to non-certificated employees, concluded that the failure to pay increments violated the Act.

The Commission finds that this case asks whether Neptune's holding should be extended to non-professional employees in a negotiations unit with teaching staff members. The Commission finds, applying labor relations principles in the aftermath of the Supreme Court's decision, that a school board cannot be compelled, after a three-year contract expires, to pay automatic increments to non-professional employees in a mixed unit with teaching staff members. The Commission thus extends Neptune's holding to all three-year contracts involving employees in a mixed unit with teaching staff members.

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P.E.R.C. NO. 99-72

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MIDDLETOWN TOWNSHIP BOARD
OF EDUCATION,

Respondent,

-and-

Docket No. CO-H-97-69

MIDDLETOWN TOWNSHIP EDUCATION
ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against the Middletown Township Board of Education. The Complaint was based on an unfair practice charge filed by the Middletown Township Education Association. The charge alleges that the Board violated the New Jersey Employer-Employee Relations Act by refusing to pay for graduate work and for longevity after the parties' three-year collective negotiations agreement expired. Applying the analysis in Neptune Tp. Bd. of Ed. v. Neptune Tp. Ed. Ass'n, 144 N.J. 16 (1996), the Commission finds that a school board is not required to pay a new or higher longevity payment pursuant to the salary schedule of an expired three-year agreement. Also applying Neptune, the Commission finds that a school board is not required to pay higher compensation for educational attainment under the expired salary guide.

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P.E.R.C. NO. 99-73

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

GREEN TOWNSHIP BOARD OF EDUCATION,

Charging Party,

-and-

Docket No. CO-H-98-129

GREEN TOWNSHIP EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against the Green Township Board of Education. The Complaint was based on an unfair practice charge filed by the Green Township Education Association. The charge alleges that the Board violated the New Jersey Employer-Employee Relations Act when, after a three-year collective negotiations agreement expired, it did not increase the salaries of teachers earning higher degree credits or meeting longevity criteria. Applying the analysis in Neptune Tp. Bd. of Ed. v. Neptune Tp. Ed. Ass'n, 144 N.J. 16 (1996), the Commission holds that a school board in successor contract negotiations cannot be ordered to increase salaries based on degree and longevity provisions in a three-year salary schedule that has expired.

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P.E.R.C. NO. 99-74

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Public Employer,

-and-

SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 617, AFL-CIO,

Docket No. RO-99-30

Petitioner,

-and-

DISTRICT 6, INTERNATIONAL UNION OF
INDUSTRIAL SERVICE TRANSPORTATION
HEALTH EMPLOYEES,

Intervenor.

SYNOPSIS

The Public Employment Relations Commission denies a request for review filed by District 6, International Union of Industrial Service Transportation Health Employees. District 6 seeks review of the Director of Representation's decision declining to accord blocking effect to an unfair practice charge filed by District 6. Service Employees International Union Local 617 has petitioned to represent a unit of public works employees currently represented by District 6. The Commission finds that nothing in District 6's request indicates that the Director's decision raises a substantial question of law, rule or policy or that it includes any errors on substantial factual issues.

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P.E.R.C. NO. 99-75

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BURLINGTON COUNTY MOSQUITO
EXTERMINATION COMMISSION,

Respondent,

-and-

Docket Nos. CO-H-95-169
CO-H-96-22 & CO-H-96-27

COMMUNICATIONS WORKERS OF AMERICA,
AFL-CIO, LOCAL 1044,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission severs and dismisses two unfair practice charges from a consolidated Complaint. The charges were filed by the Communications Workers of America, AFL-CIO, Local 1044 against the Burlington County Mosquito Extermination Commission. The charges allege that the BCMEC violated the New Jersey Employer-Employee Relations Act when its superintendent suspended Michael Muench, an inspector, for 53 days, allegedly in retaliation for filing a grievance and reporting a pilot's possible pesticide misapplication to the Department of Environmental Protection; when it discharged Muench, allegedly in retaliation for his filing grievances and reporting the asserted misapplication to DEP; and when it suspended Daniel Stevenson, a shop steward, for 10 days, allegedly for his role in pressing a group grievance involving Muench.

The Complaint was consolidated with a series of appeals filed by Muench with the Merit System Board and hearings were conducted by an Administrative Law Judge. The ALJ found that none of the personnel actions was motivated by hostility toward grievances filed by Muench or the complaint filed with the DEP and all were based on legitimate operational concerns and proven misconduct. No evidence was presented on the charge concerning the suspension of Daniel Stevenson.

The Commission declines to consider whether the Act was violated by any disciplinary actions besides those contested in the charges and also declines to consider whether a new hearing on the termination issue should have been held after the first ALJ recused himself. Absent any exceptions or evidence in the record concerning the third charge involving the Stevenson suspension, the Commission severs that charge and dismisses it.

The Commission is satisfied that the ALJ reviewed the evidence and determined that the suspensions in question and the termination were motivated by legitimate business reasons, not hostility towards Muench's grievances or his DEP complaint. The Commission also agrees with the ALJ's conclusion that the 1994 suspensions and the 1995 termination were not motivated by hostility towards Muench's protected activity and the Commission has no basis for rejecting that conclusion on this record. The Commission therefore dismisses the first unfair practice charge concerning Muench's suspensions. The Commission does not issue an order with respect to the second charge (CO-96-22) at this juncture and will transmit the record to the Merit System Board for its consideration of CWA'S request to reopen the hearing on the termination. The Commission asks the MSB to send to the Commission its decision on that request so the Commission can consider whether further action on that charge is necessary.

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P.E.R.C. No. 99-76

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF WEST ORANGE,

Respondent,

-and-

Docket No. CI-H-96-63

KIMBERLEY ANN BAMDAS,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against the Township of West Orange. The Complaint was based on an unfair practice charge filed by Kimberley Ann Bamdas. The charge alleges that the Township violated the New Jersey Employer-Employee Relations Act by harassing her, selectively enforcing a residency ordinance against her, and constructively discharging her on December 18, 1995. The charge further alleges that the Township retaliated against her because she attempted to organize a separate negotiations unit of communication operators to be represented by the Firemen's Mutual Benevolent Association, Local 428, and that the Township wrongfully discharged her and retaliated against her in violation of the Conscientious Employee Protection Act, N.J.S.A. 34:19-1 et seq., for providing information to the Commission and the Department of Personnel. The Commission finds that although there are a number of incidents on the record that evidence hostility or tension between Bamdas and her superior officers, it is not compelled to infer that all of those problems between Bamdas and the superior officers were as a result of her protected activity. The Commission finds that her resignation was not planned by the Township nor was it a foreseeable consequence of any retaliatory conduct.

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P.E.R.C. NO. 99-77

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF BOGOTA,

Respondent-Charging Party,

-and-

Docket Nos. CO-H-97-276,
CE-H-97-19, CE-H-97-20

PBA LOCAL 86,

Charging Party-Respondent

SYNOPSIS

The Public Employment Relations Commission dismisses a Consolidated Complaint. The Consolidated Complaint was based on unfair practice charges filed by PBA Local 86 and the Borough of Bogota. The charge filed by the PBA alleges that the Borough violated the New Jersey Employer-Employee Relations Act when, in January 1997, it established a civilian dispatcher position, announced that it planned to hire civilians to perform dispatching duties that had, since 1978, been performed exclusively by police officers, and refused to negotiate with the PBA over this issue. The charges filed by the Borough allege that the PBA violated the Act when it refused to negotiate over a health benefits proposal and when it refused, after an interim decision, to either negotiate over the use of civilian dispatchers or to submit the issue to a then-pending interest arbitration proceeding.

The Commission finds that this case, like Jersey City and POBA and POSA, 154 N.J. 555 (1998), implicates the "special position" of police officers and a governing body's broad discretion to administer its police department and determine what assignments are most appropriate for police officers to perform. The Commission concludes that the Borough made a policy determination as to how to best manage department resources and assign police officers and the Borough's proposal to hire civilian dispatchers is not mandatorily negotiable. In view of its ruling, the Commission does not address the Borough's allegation that the PBA violated the Act when it refused to negotiate over the civilianization issue.

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P.E.R.C. NO. 99-78

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF FRANKLIN,

Respondent,

-and-

Docket No. CO-H-98-44

FRANKLIN TOWNSHIP
PBA LOCAL 154,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against the Township of Franklin. The Complaint was based on an unfair practice charge filed by Franklin Township PBA Local 154. The charge alleges that the Township violated the New Jersey Employer-Employee Relations Act by transferring a patrol officer from the afternoon shift to the day shift and prohibiting him from working overtime assignments, which allegedly contravenes an established practice of allocating overtime by seniority. The Commission finds that the Township did not unilaterally end the practice of allocating overtime by seniority, but deviated from it in this one instance because of a perceived need to more closely supervise and control the assignments of one patrol officer. Thus, the Commission concludes that this one breach of the overtime practice did not violate the Township's obligation to negotiate in good faith.

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P.E.R.C. NO. 99-79

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RAHWAY VALLEY SEWERAGE AUTHORITY,

Respondent,

-and-

Docket No. CO-H-97-21

OIL, CHEMICAL AND ATOMIC WORKERS
INTERNATIONAL UNION, AFL-CIO,
LOCAL 8-149,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission finds that the Rahway Valley Sewerage Authority violated the New Jersey Employer-Employee Relations Act when it refused a demand to negotiate over layoff and recall procedures at the time the Authority announced a layoff. The Commission dismisses Local 8-149's allegations that protected activity motivated its decision to lay off two employees. The Commission orders the Authority to negotiate in good faith with the Oil, Chemical and Atomic Workers International Union, AFL-CIO, Local 8-149 concerning layoff and recall procedures.

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P.E.R.C. NO. 99-80

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

AMALGAMATED TRANSIT UNION,
LOCAL 819, AFL-CIO,

Petitioner,

-and-

Docket No. SN-99-44

NEW JERSEY TRANSIT BUS
OPERATIONS, INC.,

Respondent.

SYNOPSIS

The Public Employment Relations Commission consolidates a scope of negotiations petition filed by the Amalgamated Transit Union, Local 819, AFL-CIO with an unfair practice charge filed by Local 819 against the New Jersey Transit Bus Operations, Inc. Local 819 seeks a determination that NJ Transit is required to negotiate before implementing a maintenance department attendance policy. Local 819's charge alleges that NJ Transit violated the New Jersey Employer-Employee Relations Act when it unilaterally implemented the maintenance attendance policy. The Commission concludes that the parties have a dispute over whether the maintenance attendance policy changed employment conditions and may have a dispute over the negotiability of some of those employment conditions. Because the Commission cannot resolve the initial factual issue in a scope proceeding, it consolidates the scope petition with the pending unfair practice charge and any scope of negotiations issues can be resolved through the consolidated proceeding.

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