

P.E.R.C. NO. 99-81

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF DUMONT,

Petitioner,

-and-

Docket No. SN-98-15

PATROLMAN'S BENEVOLENT ASSOCIATION  
(PBA) LOCAL 83 (DUMONT UNIT),

Respondent.

SYNOPSIS

The Public Employment Relations Commission dismisses as untimely a motion for reconsideration filed by the Borough of Dumont. The Borough seeks reconsideration of P.E.R.C. No. 98-111, issued on February 27, 1998, denying a restraint of arbitration of a grievance filed by Patrolman's Benevolent Association (PBA) Local 83 (Dumont Unit). The Borough seeks reconsideration based on the Commission's holding in a recent decision. The Commission concludes that all the relevant legislation and case law was available to the Borough for it to argue in the initial proceeding. Under the circumstances, and noting that motions for reconsideration must be filed within 15 days of service of the Commission's decision, the Commission finds no basis for relaxing the timelines and granting reconsideration.

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. 99-82

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NORTH BERGEN TOWNSHIP,

Petitioner,

-and-

Docket No. SN-99-38

LOCAL 11, INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the Township of North Bergen for a restraint of binding arbitration of grievances filed by Local 11, International Brotherhood of Teamsters. The grievances claim that the Township violated the parties' collective negotiations agreement when it reassigned a motor sweeper driver to hand sweeper duties; reassigned him from motor sweeper duty to the traffic department; assigned him to do manual labor; criticized him for signing an attendance sheet "under protest"; and warned him about improper maintenance of equipment. The Commission restrains arbitration to the extent the grievances assert that the reassignment to new duties or a department was motivated by hostility towards the filing of grievances or other union activity. The Commission also restrains arbitration of any claims contesting the Township's prerogative to make the reassignment. The request for a restraint of binding arbitration is denied concerning the other claims such as disciplinary warnings, procedures for ensuring information on attendance sheets is accurate, and seniority claims.

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P.E.R.C. NO. 99-83

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF BUTLER,

Petitioner,

-and-

Docket No. SN-98-90

P.B.A. LOCAL 198,

Respondent.

SYNOPSIS

The Public Employment Relations Commission decides the negotiability of a provision which the Borough of Butler seeks to remove from an expired collective negotiations agreement between the Borough and P.B.A. Local 198. The contractual article in dispute provides for payments that decline with additional years of service and would thus tend to induce employees to retire closer to 25, rather than 28 years of service. The Commission concludes that this article is an early retirement incentive which is not mandatorily negotiable and may not be submitted to interest arbitration for inclusion in a successor agreement.

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P.E.R.C. NO. 99-84

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MORRIS SCHOOL DISTRICT  
BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-99-40

THE EDUCATION ASSOCIATION  
OF MORRIS,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Morris School District Board of Education for a restraint of binding arbitration of a grievance filed by The Education Association of Morris. The grievance contests the withholding of a teacher's salary increment for the 1998-99 school year. The Commission concludes that the reasons for this withholding were predominately based on an evaluation of teaching performance. The areas of concern involved Professional Characteristics, Class Management and Teaching Procedures. Any appeal of this withholding shall be filed with the Commissioner of Education.

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P.E.R.C. NO. 99-85

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MORRIS SCHOOL DISTRICT BOARD  
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-99-41

THE EDUCATION ASSOCIATION  
OF MORRIS,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Morris School District Board of Education for a restraint of binding arbitration of a grievance filed by The Education Association of Morris. The grievance contests the withholding of a teacher's salary increment for the 1998-99 school year. The Commission concludes that the predominate reasons for this withholding were based on an unsatisfactory evaluation of teaching performance in the areas of Professional Characteristics, and Class Management. Any appeal of this withholding shall be filed with the Commissioner of Education.

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P.E.R.C. NO. 99-86

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF DELRAN,

Appellant,

-and-

Docket No. IA-98-25

DELRAN TOWNSHIP SUPERIOR  
OFFICERS' ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission affirms an interest arbitration award issued to resolve the negotiations between the Township of Delran and the Delran Township Superior Officers' Association. The Township appeals contending that the award should be vacated as it pertains to holiday pay. It asserts that the arbitrator did not properly consider the lawful authority of the employer because the award cannot legally be implemented. The Township asserts that the Division of Pensions has advised it that holiday pay can only be included in base salary for pension purposes for the SOA if such benefit is also provided to other negotiations units whose members are in the Police and Firemen's Retirement System. The Commission agrees with the Township that the arbitrator could not order that holiday pay be included in base pay for pension purposes, but the arbitrator did have the authority to award the SOA proposal to the extent that it changed the method of payment for holiday pay and required that it be included in the base pay rate for purposes of overtime compensation. Those are mandatorily negotiable compensation issues. The Commission stresses that neither it nor the arbitrator have jurisdiction to determine what is included in base pay for pension purposes.

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P.E.R.C. NO. 99-87

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HOPEWELL VALLEY REGIONAL  
BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-99-33

HOPEWELL VALLEY SECRETARIES  
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the Hopewell Valley Regional Board of Education for a restraint of binding arbitration of four grievances filed by a non-tenured secretary represented by the Hopewell Valley Secretaries Association. The grievances allege that: (1) the Board violated the collective negotiations agreement and Board policies when it failed to protect the secretary from harassment and/or discrimination based on race, (2) the Board violated the agreement when it transferred her, charged her for sick leave, involuntarily placed her on family leave, denied her part-time status and paid her improperly, (3) her evaluation was dated the same day she was transferred and she was involved in a work-related accident and that the non-renewal notice was issued in response to the grievance she had filed the previous day, and (4) her termination was discipline without just cause and in reprisal for having filed grievances. The Association will pursue the first grievance in another forum and therefore the Commission declines to rule on that grievance. The Commission grants a restraint of arbitration on the portion of the second grievance which challenges the transfer to another building. The request for a restraint of other claims raised in that grievance is denied. The request for a restraint of arbitration over the substantive decision not to renew the employment contract and to terminate employment is granted. The request is otherwise denied.

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P.E.R.C. NO. 99-88

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HAMILTON TOWNSHIP BOARD  
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-99-32

HAMILTON TOWNSHIP EDUCATION  
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Hamilton Township Board of Education for a restraint of binding arbitration of a grievance filed by the Hamilton Township Education Association. The grievance contests the elimination of two cafeteria operator positions. The parties agree that this case centers on staffing levels. The Commission concludes that such staffing levels are not mandatorily negotiable.

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P.E.R.C. NO. 99-89

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF PARAMUS,

Petitioner,

-and-

Docket No. SN-99-39

TEAMSTERS LOCAL 97 OF  
NEW JERSEY, IBT, AFL-CIO,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Borough of Paramus for a restraint of binding arbitration of a grievance filed by Teamsters Local 97 of New Jersey, IBT, AFL-CIO. The grievance alleges that the Borough violated the parties' collective negotiations agreement when it denied the position of sanitation handler to a tree trimmer and filled the position with a non-unit employee. The Commission determines that the issue in this case is whether, under all the circumstances, the decision not to transfer an employee was discipline or the exercise of a managerial prerogative. The Commission concludes that the denial of the transfer was based on an evaluation of the employee's qualifications for the new position. No action was taken to punish him in his current position.

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P.E.R.C. NO. 99-91

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF WOODBRIDGE,

Petitioner,

-and-

Docket No. SN-98-100

WOODBIDGE TOWNSHIP POLICE  
DEPARTMENT SUPERVISING OFFICERS  
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Township of Woodbridge for a restraint of binding arbitration of a grievance filed by the Woodbridge Township Police Department Supervising Officers Association. The grievance alleges that the Township violated the parties' collective negotiations agreement when it changed the assignment and work schedule of a captain. The Commission concludes, under all of the circumstances, that the decision to reassign a captain to different duties and a different work schedule is non-negotiable. The Township has a prerogative to determine that its concerns about crime, misconduct, and citizen complaints warrant a command presence and enhanced supervision at night and on weekends.

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P.E.R.C. NO. 99-92

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

LAKELAND CUSTODIAL ASSOCIATION,

Petitioner,

-and-

Docket No. SN-99-23

LAKELAND REGIONAL HIGH SCHOOL  
DISTRICT BOARD OF EDUCATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines that the increment withholding of a custodian employed by the Lakeland Regional High School District Board of Education and represented by the Lakeland Custodial Association is subject to binding arbitration. The Association grieved the withholding and the matter was submitted to advisory arbitration. The arbitrator directed the Board to restore the increment and the Board refused to do so. The Commission concludes that increment withholdings involving non-professional school board employees are subject to binding arbitration under N.J.S.A. 34:13A-29. Therefore, this withholding was disciplinary and subject to binding arbitration.

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P.E.R.C. NO. 99-90

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PEMBERTON TOWNSHIP,

Petitioner,

-and-

Docket No. SN-99-19

AFSCME, COUNCIL 71, LOCAL 2783,

Respondent.

SYNOPSIS

The Public Employment Relations Commission consolidates a scope of negotiations petition filed by the Township of Pemberton with an unfair practice charge and refers the petition to the Director of Unfair Practices for further processing. The scope petition seeks a restraint of binding arbitration of a grievance filed by AFSCME, Council 71, Local 2783 contesting a change in the work hours of municipal court employees. The unfair practice charge filed by AFSCME alleged that the Township violated the New Jersey Employer-Employee Relations Act by unilaterally altering the work hours for municipal court employees. The Director of Unfair Practices deferred the unfair practice charge to the parties' arbitration mechanism and AFSCME demanded arbitration. Although the deferral policy contemplates that arbitrability defenses will be waived in order to allow the arbitrator to decide the merits of the grievance, the Township sought a restraint of arbitration asserting that it had a managerial prerogative to change the hours. The Commission therefore orders the charge and the petition to be consolidated. The employer may litigate its managerial prerogative defenses in that consolidated matter. If the Association proceeds in arbitration and prevails, any challenges to the negotiability of the award can be raised in the consolidated proceeding.

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