

P.E.R.C. NO. 99-108

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

UNION COUNTY,

Respondent,

-and-

Docket No. CO-H-98-210

UNION COUNTY PBA LOCALS 199
and 199A (SUPERIOR OFFICERS),

Charging Parties.

SYNOPSIS

The Public Employment Relations Commission denies the County of Union's motion for summary judgment of an unfair practice charge filed by Union County PBA Locals 199 and 199A (Superior Officers). The charge alleges that the County violated the New Jersey Employer-Employee Relations Act when it allegedly refused to pay the fees of attorneys selected by corrections officers to represent them in civil or criminal cases that stemmed from the performance of their duties. The County alleges that the charge was untimely and the change in the selection of attorneys involves a non-negotiable managerial prerogative. The Commission concludes that since disputed factual issues remain which bear on the timeliness of the charge, summary judgment is not appropriate. The timeliness issue may be litigated before the Hearing Examiner. The Commission has held that both county and municipal employers may negotiate agreements that allow outside counsel to be selected by the officers where the employers can lawfully agree to provide for the officers' defense. The Commission, therefore, concludes that the alleged unilateral change involves an issue which is mandatorily negotiable and the County is not entitled to summary judgment. The matter is remanded to the Hearing Examiner for further proceedings.

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. 99-109

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF NUTLEY,

Petitioner,

-and-

Docket No. SN-99-80

NUTLEY P.B.A. LOCAL NO. 33,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Township of Nutley for a restraint of binding of a grievance filed by Nutley P.B.A. Local No. 30. The grievance alleges that the Township violated the just cause provision of the parties' collective negotiations agreement when it denied the police chief's recommendation to promote a police officer to the rank of sergeant. The Commission concludes that permitting arbitration of a claim that the Township is contractually required to fill a position even though it has decided to leave the position vacant would substantially limit the employer's policymaking decision not to fill vacant positions pending a departmental reorganization.

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P.E.R.C. NO. 99-110

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWN OF WEST NEW YORK,

Respondent,

-and-

Docket No. CO-H-97-287

WEST NEW YORK PBA LOCAL NO. 361,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission finds that the Town of West New York violated the New Jersey Employer-Employee Relations Act when it hired a patrol officer at the top step of the salary guide and with top benefits. West New York PBA Local No. 361 alleges that the Town unilaterally altered the parties' established practice of starting officers with experience at step one of the guide. The Commission concludes that the Town's lawful authority to compensate new police officers was limited by the duty to negotiate before changing the practice regarding initial salary placement. As a remedy, the PBA has requested that the officer be returned to step one of the salary guide. Given the passage of time, a reduction that drastic is inappropriate. In accordance with Commission and NLRB precedent, the Commission directs that the Town, prior to negotiations with the PBA, prospectively conform the officer's salary and benefits to the levels they would be by now had the officer begun employment on step one in August 1996.

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P.E.R.C. NO. 99-111

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RUMSON-FAIR HAVEN REGIONAL
HIGH SCHOOL BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-99-76

RUMSON-FAIR HAVEN REGIONAL
SCHOOL EMPLOYEES ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Rumson-Fair Haven Regional High School Board of Education for a restraint of binding arbitration of a grievance filed by the Rumson-Fair Haven Regional School Employees Association. The grievance alleges that the Board violated the parties' collective negotiations agreement and past practice when two custodians were assigned to work overtime in excess of 35 hours. In this case the employer indisputably had a need for custodial services on a Sunday so that certain activities could be scheduled and no employees volunteered. The Commission concludes that a public employer may unilaterally mandate that a certain number of employees will work overtime.

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P.E.R.C. NO. 99-112

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BERGENFIELD BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-99-71

BERGENFIELD EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the Bergenfield Board of Education for a restraint of binding arbitration of a grievance filed by the Bergenfield Education Association. The grievance contests comments in a memorandum and an annual evaluation concerning an elementary school teacher's duty to contribute a summary of classroom activities for a monthly school newsletter. The Commission concludes that the comments on the annual evaluation are not a reprimand but rather a reiteration of the employer's policy and expectation and an evaluative description of how the employer believes the teacher did not meet that expectation. The Commission, however, concludes that the memorandum issued to the teacher concerning the monthly newsletter is a disciplinary reprimand which may be considered by an arbitrator. The Commission emphasizes that the arbitrator may not second-guess the Board's right to have teachers contribute brief articles to the school newsletter.

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P.E.R.C. NO. 99-113

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF SCOTCH PLAINS,

Petitioner,

-and-

Docket No. SN-99-73

SCOTCH PLAINS P.B.A. LOCAL 87,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Township of Scotch Plains for a restraint of binding arbitration of a grievance filed by Scotch Plains P.B.A. Local 87. The grievance contests the denial of an employee's shift selection for 1999. Given that the contractual clause protects the employer's operational needs and given the factual dispute between the parties, the Commission declines to restrain arbitration. The Commission retains jurisdiction. If the employer prevails in arbitration, the case will be over. But if the employer loses in arbitration and if it believes that the award substantially limits its governmental policy powers, it may reactivate its petition and make that argument to the Commission.

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STATE OF NEW JERSEY
BEFORE THE
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of :
ALFRED VAN SLYCK, :
Appellant, : OAL Docket No. CSVLT-11039-97N
v. :
VILLAGE OF RIDGEWOOD, :
Respondent. :
_____: :
VILLAGE OF RIDGEWOOD, :
Respondent, :
-and- : PERC Docket No. CI-H-98-24
ALFRED VAN SLYCK, :
Charging Party. :

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against the Village of Ridgewood. The Complaint was based on an unfair practice charge filed by Alfred Van Slyck alleging that the village violated the New Jersey Employer-Employee Relations Act by terminating him because of his activities as a shop steward for Local 29, RWDSU, AFL-CIO, the recognized collective negotiations representative of the Village's blue collar employees. Van Slyck also filed an appeal with the Merit System Board. The Complaint and the Appeal were consolidated by joint order and an Administrative Law Judge held a hearing. The ALJ issued an Initial Decision containing findings of fact and conclusions of law for review by each agency. With respect to the unfair practice charge, the ALJ concluded that the employer's hostility toward the charging party's protected activity led to its decision to terminate him. The Commission holds that the ALJ did not adequately consider Van Slyck's disciplinary record when she concluded that his termination evidenced anti-union animus because another employee involved received only a three day suspension. The Commission finds that the other evidence the ALJ relied on is insufficient to establish a nexus between Van Slyck's activities as a shop steward and his termination.

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P.E.R.C. NO. 99-107

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF MATAWAN,

Petitioner,

-and-

Docket No. SN-99-64

P.B.A. LOCAL 179,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines whether a proposal made by P.B.A. Local 179 may be considered by an interest arbitrator for inclusion in a successor collective negotiations agreement with the Borough of Matawan. The PBA seeks to codify the Borough's current practice of paying the premiums for medical and dental coverage for the spouses and dependents of certain police officers who retire. The Commission concludes that while the PBA is seeking new contract language, its proposal, if awarded, would not create a new benefit, affect other employees, or create non-uniformity in retiree health benefits. It would simply continue the Borough's present practice with respect to payment of retiree health premiums, which both parties acknowledge complies with N.J.S.A. 40A:10-23. Given the Commission's holding that N.J.S.A. 40A:10-23 does not require a blanket prohibition against submitting all retiree health benefit proposals to interest arbitration, the Commission concludes that the proposal may be considered by an interest arbitrator.

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