

I.R. NO. 89-24

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY,

Respondent,

-and-

Docket No. CO-89-273

STATE LAW ENFORCEMENT CONFERENCE,

Charging Party,

and-

N.J. STATE POLICEMEN'S BENEVOLENT ASSOCIATION,

Intervenor.

SYNOPSIS

In an application for interim relief before the Public Employment Relations Commission brought by the State Law Enforcement Conference (SLEC), a Commission Designee refuses to restrain negotiations between the N.J. State Policemen's Benevolent Association (PBA) and the State of New Jersey. SLEC claims it is the majority representative of members of the State Law Enforcement Unit and the State should negotiate with it and not the PBA. However, the evidence at the hearing is in conflict as to whether the PBA or SLEC is the designated majority representative and was not sufficient to demonstrate that SLEC has a substantial likelihood of success in a final Commission Decision.

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Appearances:

For the Respondent
Richard Fornaro, DAG

For the Charging Party
Loccke & Correia, Esqs.
(Richard D. Loccke, of counsel)

For the Intervenor
Zazzali, Zazzali, Fagella & Nowak, Esqs.
(Paul L. Kleinbaum, of counsel)

DECISION

On March 22, 1989, the State Law Enforcement Conference of the New Jersey State Policemen's Benevolent Association ("SLEC" or "Charging Party") filed an unfair practice charge^{1/} with the Public Employment Relations Commission ("Commission") against the

^{1/} In its original filing, the Charging Party identified itself as the State Law Enforcement Conference. The charge was amended at the hearing to reflect the Charging Party's full name.

State of New Jersey ("State"), alleging that the State violated subsections 5.4(a)(5) and (7) of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act"),^{2/} by refusing to negotiate with SLEC.

On June 15, 1989, the Charging Party filed an application for an Order to Show Cause which was signed and made returnable on June 27, 1989. A Complaint and Notice of Hearing was issued in this matter on June 16, 1989. On June 26, 1989, the New Jersey State Policemen's Benevolent Association ("PBA") filed a notice of its intention to intervene. The hearing on the Order to Show Cause was held on June 28, 1989, at which time the PBA's motion to intervene was granted and all parties submitted documentary evidence and argued orally in support of their positions.

The standards that have been developed by the Commission for evaluating interim relief requests are similar to those applied by the Courts when addressing similar applications. The moving party must demonstrate that it has a substantial likelihood of success on the legal and factual allegations in a final Commission decision and that irreparable harm will occur if the requested relief is not granted. Further, in evaluating such requests for

^{2/} These subsections prohibit public employers, their representatives or agents from: "(5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative. (7) Violating any of the rules and regulations established by the commission."

relief, the relative hardship to the parties in granting or denying the relief must be considered.^{3/}

SLEC alleges that it is the exclusive designated majority representative of certain law enforcement employees of the State of New Jersey. This unit is known as the State Law Enforcement Unit. The State has, according to SLEC, unlawfully by-passed SLEC as the majority representative and is attempting to negotiate a new contract with the PBA.

It is the State's position that the certification which was issued by the Commission in 1970, provides that the exclusive majority representative of the State Law Enforcement Unit is the PBA and, accordingly, it is obligated to negotiate with the PBA as the certified employee representative and not SLEC.

SLEC argues that the PBA has certain practices which conflict with the Act. Moreover, it contends the PBA is a fraternal organization and not a public employee representative within the meaning of the Act. The Charging Party further argues that SLEC is a corporation created for the sole purpose of representing the employees in the State Law Enforcement Unit. Officers of SLEC have always signed the collective negotiations agreement and the preamble of that agreement provides the State and the "State Law Enforcement

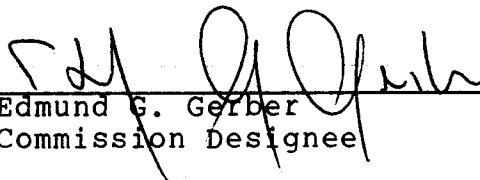
^{3/} Crowe v. DeGioia, 90 N.J. 126 (1982); Tp. of Stafford, P.E.R.C. No. 76-9, 1 NJPER 59 (1975); State of New Jersey (Stockton State College), P.E.R.C. No. 76-6, 1 NJPER 41 (1975); Tp. of Little Egg Harbor, P.E.R.C. No. 94, 1 NJPER 36 (1975).

Conference of the State Law Enforcement Benevolent Association" are the parties to the agreement.

The PBA argues that the Commission has designated the PBA as the certified majority representative of employees in the disputed unit and, moreover, the recognition clause of the contract provides that the PBA is the sole and exclusive representative of the State Law Enforcement Unit.

Here, the Charging Party has failed to meet its heavy burden at this stage of the proceeding. SLEC's allegations as to the legal status of the PBA are in dispute and the references in the contract to SLEC seem to be in conflict with the contract recognition clause and the Commission's certification of the PBA as the exclusive representative. The evidence before me is not sufficient to demonstrate that SLEC has a substantial likelihood of success in a final Commission decision.

Accordingly, SLEC's application for interim relief is denied.


Edmund G. Gerber
Commission Designee

DATED: June 29, 1989
Trenton, New Jersey