

I.R. NO. 93-3

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RIDGEWOOD BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-93-19

RIDGEWOOD BUILDING SERVICE STAFF
ASSOCIATION,

Charging Party.

SYNOPSIS

A Commission Designee declines to restrain the Ridgewood Board of Education from subcontracting duties of unit employees. The Ridgewood Building Services Staff Association sought to restrain the subcontracting. Although it acknowledged subcontracting is not a negotiable subject of bargaining as per Local 195, IFPTE v. State, the Association argued that because the subcontracting took place during the term of a collective negotiations agreement, the subcontracting could not take place until the agreement expired. However, the Commission previously held that subcontracting during the term of an agreement is non-negotiable and the provisions of a contract to the contrary are not controlling. So. Brunswick Bd. of Ed., P.E.R.C. No. 83-3, 8 NJPER 429 (13199 1982).

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Appearances:

For the Respondent
Sills, Cummis, Zuckerman, Radin, Tischman,
Epstein & Gross, attorneys
(James L. Plosia, of counsel)

For the Charging Party
Springstead & Maurice, attorneys
(Alfred F. Maurice, of counsel)

INTERLOCUTORY DECISION

On July 14, 1992, the Ridgewood Building Services Staff Association filed an unfair practice charge, accompanied by an Order to Show Cause, with the Public Employment Relations Commission alleging that the Ridgewood Board of Education violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq.; specifically subsections 5.4(a)(1), (2), (3), (5) and (7)^{1/} when

^{1/} These subsections prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the

it subcontracted the services of unit employees during the term of an existing contract with the charging party. The Order to Show Cause was executed and made returnable for July 31, 1992. A hearing was conducted on that date.

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 relief, the relative hardship to the parties in granting or denying the relief must be considered.^{2/}

1/ Footnote Continued From Previous Page

rights guaranteed to them by this act. (2) Dominating or interfering with the formation, existence or administration of any employee organization. (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this act. (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."

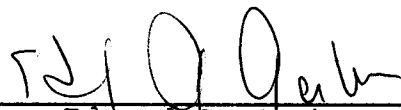
2/ Crowe v. DeGioia, 90 N.J. 126 (1982); Tp. of Stafford, P.E.R.C. No. 76-9, 1 NJPER 59 (1975); State of New Jersey (Stockton State College), P.E.R.C. No. 76-6, 1 NJPER 41 (1975); Tp. of Little Egg Harbor, P.E.R.C. No. 94, 1 NJPER 36 (1975).

Although conceding that subcontracting is not a negotiable subject of bargaining as per Local 195, IFPTE v. State, 88 N.J. 393 (1982), the Charging Party argues that the contract in existence between it and the respondent had to be honored and the Board could not subcontract the work of the unit employees until the contract expired.

The Commission has expressly held that subcontracting during the term of an agreement is non-negotiable and the provisions of a contract to the contrary are not controlling. So. Brunswick Bd. of Ed., P.E.R.C. No. 83-3, 8 NJPER 429 (¶13199 1982). See also Old Bridge Tp. Bd. of Ed., P.E.R.C. No. 88-143, 14 NJPER 465 (¶19194 1988).

The Association has not met its heavy burden. The Application is denied.

BY ORDER OF THE COMMISSION



Edmund G. Gerber
Commission Designee

DATED: August 5, 1992
Trenton, New Jersey