

I.R. NO. 92-21

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF PERTH AMBOY,

Petitioner,

-and-

Docket No. SN-92-114

PERTH AMBOY SUPERIOR OFFICERS ASSOCIATION,
FRATERNAL ORDER OF POLICE, LODGE No. 80,

Respondent.

SYNOPSIS

The City of Perth Amboy sought to restrain an arbitration brought by Perth Amboy Superior Officers Association, Fraternal Order of Police, Lodge No. 80. The arbitration concerns the assignment of two deputy chiefs to act as chief of police. The chief of police had traditionally worked a 5 day on, 2 day off schedule. Prior to these assignments, the deputy chiefs worked a 4 day on 3 day off schedule. When the deputy chiefs were assigned acting chief, their shifts were changed to a 5 day on 2 day off schedule. The FOP concedes that the City had a non-negotiable right to change the schedules of the deputy chiefs. However, it seeks to arbitrate the question of overtime paid to the deputy chiefs for the time they were assigned as acting chief. The request for an interim restraint of binding arbitration is granted to the extent that the FOP sought to challenge the shift assignments of deputy chiefs acting as chief. The arbitration was not restrained as to the question of overtime pay.

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Appearances:

For the Petitioner
Fogarty & Hara, attorneys
(Rodney T. Hara, of counsel)

For the Respondent
Dr. Simon M. Bosco, Labor Relations Specialist

INTERLOCUTORY DECISION

On June 8, 1992, the City of Perth Amboy filed a Scope of Negotiations Petition with the Public Employment Relations Commission seeking to restrain an arbitration brought by Perth Amboy Superior Officers Association, Fraternal Order of Police, Lodge No. 80. The City also seeks an interim restraint of the arbitration pending a final Commission decision.

The scheduled arbitration concerns the assignment of two deputy chiefs to act as chief of police. The chief of police had traditionally worked a 5 day on 2 day off schedule. Prior to these

assignments, the deputy chiefs worked a 4 day on 3 day off schedule when the deputy chiefs were assigned acting chief, their shifts were changed to a 5 day on two day off schedule. The FOP seeks the "immediate and continual adherence to contract; overtime payment for all days not in accordance with contract for both individuals; cease and desist". The FOP now concedes that the City has a non-negotiable managerial right to change the schedules of the deputy chiefs. However, they seek to go forward to arbitration on the question of overtime pay for the deputy chiefs when they were assigned duties of acting chief.

Here, the FOP concedes the City had a right to alter the shifts of the deputy chiefs assigned to act as chief. City of Newark, P.E.R.C. No. 88-137, 14 NJPER 442 (¶19181 1988). However, these employees have the right to arbitrate the question of compensation for the increased number of hours worked. New Jersey Sports and Exposition Auth., P.E.R.C. No. 87-143, 13 NJPER 492 (¶18181 1987), aff'd App. Div. Dkt. No. A-4781-86T8 (2/25/88). Local 195, IFPTE v. State, 88 N.J. 393 (1982). C.f. Newark where there was no increase in the number of hours worked.

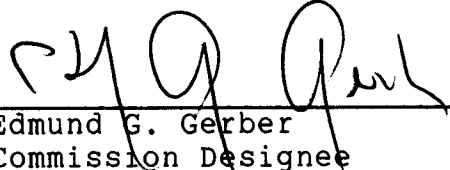
ORDER

The request of the City of Perth Amboy for an interim restraint of binding arbitration is granted to the extent that FOP

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3.

Lodge #80 seeks to challenge the shift assignments of deputy chiefs acting as chief. The arbitration may go forward on the question of compensation.



Edmund G. Gerber
Commission Designee

Dated: June 25, 1992
Trenton, New Jersey