

I.R. NO. 97-11

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY,
(DEPARTMENT OF LABOR AND
DEPARTMENT OF TREASURY),

Respondent,

-and-

Docket Nos. CO-96-280
and CO-96-298

COMMUNICATION WORKERS OF AMERICA,

Charging Party.

SYNOPSIS

A Commission Designee grants a motion to limit the duration of an order. In a previous order, I.R. 96-27, 22 NJPER 209 (¶27111 1996), the Commission Designee ordered the State of New Jersey to retrieve certain files from the Social Security Administration so they could be reviewed by the CWA. The State complied with the order but the CWA has yet to review the files. Accordingly, the Order was modified so that the period for review of the documents would expire in 21 days.

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Appearances:

For the Respondent,
Deborah T. Poritz, Attorney General
(Michael L. Diller, Sr. Deputy Attorney General)

For the Charging Party,
Weissman and Mintz, attorneys
(JudiAnn Chartier, of counsel)

DECISION ON MOTION

On November 21, 1996, the State of New Jersey filed a Notice of Motion to Limit the Duration of an Interlocutory Order. The State has asked for an order limiting the period of time for review of files which are the subject of an interlocutory order. See I.R. 96-27, 22 NJPER 209 (127111 1996). The order was executed May 20, 1996. The CWA sought the order to compel the release of certain files to prepare its defense of an employee at a disciplinary hearing.

According to the certification submitted by the State, to

comply with the order, the Division of Disability Determination Services sought 26 files in the possession of the Social Services Administration (SSA). The SSA provided the State with 15 of the case files. To date, the State has been unable to obtain the balance of the files. On September 20, 1996, the State asked the CWA to make an appointment to review the files it had obtained. After numerous communications, the CWA informed the State that it expected to complete its review of the files by November 22, 1996.

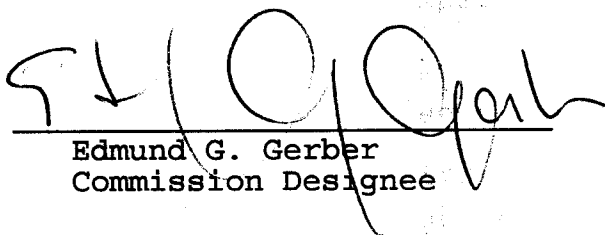
To date, CWA has failed to review the files. The State argues that these files cannot be processed by SSA as long as it holds them. Consequently, the affected claimants may experience a delay in their receipt of benefits. Therefore, the State is seeking to return the files to SSA.

The CWA opposes the motion. It argues that the State has not fully complied with the interlocutory order; it has yet to produce the rest of the files. Therefore, the order is premature. Further, the disciplinary hearings for which the documents are sought will be scheduled in the near future and the documents should not be returned to SSA until after the hearings.

The original order, allowing for discovery, was interlocutory in nature and time sensitive. CWA's delay in reviewing these files is unacceptable. In order to accommodate the concerns of the State,

IT IS HEREBY ORDERED that the State retain these documents for 21 days from the date of this order. During that time, CWA must

review the files in the possession of the State. After the expiration of the 21 day period, the State may return the files to SSA. This Order does not relieve the State of its obligation to seek the release of the balance of the files from SSA.



Edmund G. Gerber
Commission Designee

DATED: December 18, 1996
Trenton, New Jersey