

D.R. NO. 88-7

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE DIRECTOR OF REPRESENTATION

In the Matter of

CITY OF BEVERLY

Public Employer-Petitioner,

-and-

Docket No. CU-87-73

BEVERLY POLICE ASSOCIATION,

Employee Representative.

SYNOPSIS

The Director of Representation clarifies a collective negotiations unit to exclude the chief of police. This determination is based upon Egg Harbor Township, wherein the Commission held that there is an irrebuttable presumption that police chiefs are managerial executives within the meaning of N.J.S.A. 34:13A-3(f).

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Appearances:

For the Public Employer-Petitioner
Denis C. Germano, Esquire

For the Employee Representative
Harry Craythorn, President

DECISION

On June 2, 1987, the City of Beverly filed a Petition for Clarification of Unit with the Public Employment Relations Commission seeking to exclude the Chief of Police from the police negotiations unit represented by the Beverly Police Association. The City contends that the Chief is a managerial executive within the meaning of the the New Jersey Employer-Employee Relations Act ("Act") and cannot continue to be included in the police unit. The Association objects to the proposed exclusion of the Chief. Its position is predicated upon (a) the past practice of the Chief's inclusion, (b) the non-supervisory duties of the Chief.

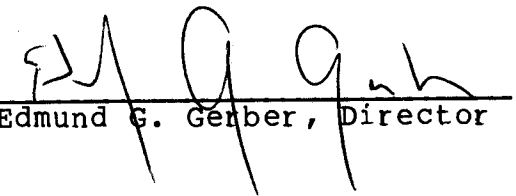
Managerial executives as defined by the Act are:

Person(s) who formulate management policies and practices and persons who are charged with the responsibility of directing the effectuation of such management policies and practices ..." N.J.S.A. 34:13A-3(f)

In Egg Harbor Tp., P.E.R.C. No. 85-46, 10 NJPER 632 (¶15304 1984), the Commission held that powers conveyed by statute to municipal chiefs of police in N.J.S.A. 40A:14-118 created a statutory command^{1/} that, without exception, makes police chiefs managerial executives within the meaning of the Act. Managerial executives are not public employees within the meaning of the Act and, therefore, are not afforded the protections of the Act, including the right to negotiate collectively.

Accordingly, we determine that the police collective negotiations unit is hereby clarified to exclude the Chief of Police, effective immediately.^{2/}

BY ORDER OF THE DIRECTOR
REPRESENTATION


Edmund G. Gerber, Director

DATED: September 3, 1987
Trenton, New Jersey

^{1/} See Gauntt v. Mayor & Council of the City of Bridgeton, 194 N.J. Super. 468 (App. Div. 1984)

^{2/} Pursuant to Clearview Reg. Bd. of Ed., D.R. 78-2, 4 NJPER 477 (1978), a determination to remove a managerial executives is given immediate effect.