

D.U.P. NO. 95-34

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE DIRECTOR OF UNFAIR PRACTICES

In the Matter of

TOWNSHIP OF FRANKLIN,

Respondent,

-and-

Docket No. CO-95-133

PBA LOCAL 154,

Charging Party.

SYNOPSIS

The Director of Unfair Practices dismisses an unfair practice charge alleging that the employer violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.4(a)(1), (3) and (5) by unilaterally promulgating a sick leave verification policy for its police employees without negotiations. The Director finds that the employer has a managerial prerogative to establish its policy.

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Appearances:

For the Respondent,
Ruderman & Glickman, attorneys
(Mark S. Ruderman, of counsel)

For the Charging Party,
Zazzali, Zazzali, Fagella & Nowak, attorneys
(Robert A. Fagella, of counsel)

REFUSAL TO ISSUE COMPLAINT

On October 25, 1994, Franklin Township PBA Local 154 (PBA) filed an unfair practice charge against the Township of Franklin (Township), alleging that the Township violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.4(a)(1), (3) and (5)^{1/} by unilaterally promulgating a sick leave verification

^{1/} These subsections prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act. (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees

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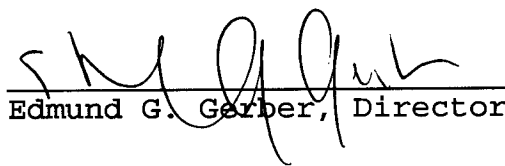
policy for all Franklin Township police officers without negotiations.

The PBA contends that this policy, as implemented, is mandatorily negotiable.

Based upon the allegations set forth in the charge, I find that the charge should be dismissed. An employer has a managerial prerogative to establish a sick leave verification policy. In re Piscataway Tp. Bd. of Ed., P.E.R.C. No. 82-64, 8 NJPER 95 (¶13039 1982); City of East Orange, P.E.R.C. No. 84-68, 10 NJPER 25 (¶15015 1983). The Township's actions conform to its managerial prerogatives under prevailing case law. While the charge itself asserts that the Township's ability to contact and visit an employee on sick leave time is without limitation, nothing presented in the charge alleges that this has been the effect of the policy.

Based on the foregoing, I find that the Commission's complaint issuance standards have not been met and I refuse to issue a complaint. N.J.A.C. 19:14-1.5 and 2.1.

BY ORDER OF THE DIRECTOR
OF UNFAIR PRACTICES


Edmund G. Gerber, Director

DATED: June 1, 1995
Trenton, New Jersey

1/ Footnote Continued From Previous Page

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."