

I.R. NO. 97-16

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF NORTH BERGEN,

Respondent,

-and-

Docket No. CO-97-323

NORTH BERGEN POLICEMEN'S BENEVOLENT
ASSOCIATION, LOCAL No. 18,

Charging Party.

SYNOPSIS

A Commission Designee orders the Township of North Bergen to grant release time to certain police officers. The most recent agreement between the parties, which expired on December 31, 1995, requires the Township to grant time off to employees to attend each PBA meeting or convention. The parties are engaged in interest arbitration for a successor agreement. The Act provides that during interest arbitration, terms and conditions of employment are not to be changed. The Township's refusal to grant time off would alter a term and condition of employment during interest arbitration.

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Appearances:

For the Respondent,
Ruderman & Glickman, attorneys
(Joel G. Scharff, of counsel)

For the Charging Party,
Klatsky & Klatsky, attorneys
(Michael A. Bukosky, of counsel)

INTERLOCUTORY DECISION

On March 21, 1997, the North Bergen Policemen's Benevolent Association, Local 18 filed an unfair practice charge with the New Jersey Public Employment Relations Commission alleging that the Township of North Bergen violated subsection 5.4(a)(1), (3), (5) and (7)^{1/} of the New Jersey Employer-Employee Relations Act, N.J.S.A.

^{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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34:13A-1 et seq. when during the course of interest arbitration proceedings for a successor agreement it refused to grant leave time to four PBA members to attend a state PBA mini-convention pursuant to Article IV of the expired agreement.

The PBA also filed an application for interim relief which was heard on March 21, 1997. Both parties submitted briefs, exhibits and argued orally.

The most recent agreement between the parties was for January 1, 1993 to December 31, 1995.

Article IV of that agreement provides:

The Township agrees to grant time off, not to exceed one week, to any employee designated by the PBA to attend each PBA state meeting or convention, providing seventy-two hours written notice in advance is given to the Chief of the Department by the PBA. Not more than four employees shall be granted time off at any one time.

The PBA mini-convention runs from March 25, 1997 to March 28, 1997. On February 21, 1997, PBA President Richard Fonde requested that four members of the PBA be allowed to attend the convention pursuant to Article IV of the agreement. The Chief of Police initially denied the request maintaining that three of the

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. (7) Violating any of the rules and regulations established by the commission."

officers were on the same shift. Fonde then submitted a new request listing different officers. Specifically, Officers Sanford, Pellechio, and Fonde and Lt. George Preiss. Two officers, including Lt. Preiss, are on the same shift. This request was again denied.

The City does not dispute that it refused to grant the PBA's request. It did grant leave time to two officers. The City maintains that less than four officers normally go to the convention. In the past eight years, four officers went to the convention only in 1996 and when too many officers from the same shift request leave time, the PBA has substituted other officers. The City maintains that the number of officers on the force has decreased this past year and if the application is granted and four officers do go to the convention, it will have to bring another superior officer in on overtime to insure minimum manning.

To obtain interim relief, the moving party must demonstrate both that it has a substantial likelihood of prevailing in a final Commission decision on its legal and factual allegations and that irreparable harm will occur if the requested relief is not granted. Further, the public interest must not be injured by an interim relief order and the relative hardship to the parties in granting or denying relief must be considered. Crowe v. De Gioia, 90 N.J. 126, 132-134 (1982); Whitmyer Bros., Inc. v. Doyle, 58 N.J. 25, 35 (1971); State of New Jersey (Stockton State College), P.E.R.C. No. 76-6, 1 NJPER 41 (1975); Little Egg Harbor Tp., P.E.R.C. No. 94, 1 NJPER 37 (1975).

Here, the parties are engaged in interest arbitration for a successor agreement. The Act provides that during interest arbitration, terms and conditions of employment are not to be changed. N.J.S.A. 34:13A-21.

The Commission has previously held that leaves not taken are lost forever and there is a public interest in avoiding disruptions of union activities during the negotiations period when there is a strong need for labor relations stability. Here, the public interest is not an issue since the Township can ensure minimum manning by bringing in a superior officer on overtime. State of New Jersey (Office of Employee Relations), I.R. No. 96-31, 22 NJPER 257 (¶20033 1996).

On balance, I find that the harm here is irreparable. The contract language is clear and the Township's refusal to honor the agreement constitutes a repudiation.

Accordingly, I hereby ORDER the Township of grant release time to patrol officers Pellechio, Fonde, Sandford, and Lt. George Preiss to attend the State PBA mini-convention.



Edmund G. Gerber
Commission Designee

DATED: March 25, 1997
Trenton, New Jersey