

I.R. NO. 95-6

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF HOBOKEN,

Petitioner,

-and-

Docket No. SN-95-25

HOBOKEN POLICE SUPERIOR OFFICERS'
ASSOCIATION,

Respondent.

SYNOPSIS

The City of Hoboken sought to restrain an arbitration brought by the PSOA seeking time and 1/2 compensation for work performed by the garage superintendent, who is a member of the Hoboken Police Department. The garage superintendent is also the emergency management coordinator for the City. It was held that the arbitrator must make a threshold determination as to whether work performed as an emergency management coordinator is work performed as a unit employee and therefore, compensated under the terms of the contract. The arbitration was allowed to proceed in accordance with this proviso.

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Appearances:

For the Petitioner
Murray, Murray & Corrigan, attorneys
(Robert E. Murray, of counsel)

For the Respondent
Schneider, Goldberger, Cohen, Finn,
Solomon, Leder & Montalbano, attorney
(Jacqueline Jassner, of counsel)

INTERLOCUTORY DECISION

On September 20, 1994, the City of Hoboken filed a scope of negotiations petition and an Application for Interim Relief with the Public Employment Relations Commission. The relief sought is the restraint of arbitration now scheduled for October 4, 1994.

The arbitration was brought by the Hoboken Police Superior Officers Association on behalf of Mario Mercado, a sergeant in the Hoboken Police Department. He holds the position of Garage Superintendent which is within the table of organization of the Hoboken Police Department. Mercado also holds the position of

Emergency Management Coordinator (EMC) for the City. In that position, he receives a stipend. In his capacity of EMC, he performed work for which he now seeks overtime under the Hoboken Police Superior Officers Association (Association) labor agreement.


The City maintains that this grievance is non-arbitrable; the position of EMC does not fall under the purview of the collective bargaining agreement between the City and the Association. As it applies to this grievance an arbitrator has no jurisdiction over this dispute. The City notes that the City also has an Assistant EMC who is a member of the City's Fire Department which is a separate and distinct unit.

The Association claims that Mercado is a member of the bargaining unit and argues that the Municipal Code of the City of Hoboken establishes the EMC position within the ranks of the police division. The Agreement between the Association and the City provides at Article XX that members are to be paid overtime for hours worked over the standard work week and provides at Article 7 any grievance not resolved through the grievance procedure may be submitted to binding arbitration.

Compensation is a mandatory subject of negotiations and is an appropriate subject for arbitration. However, the terms and conditions of employment of non-unit employees is not a mandatory subject of negotiations. Old Bridge Tp. Bd. of Ed., P.E.R.C. No. 87-132, 13 NJPER 352, 353 (¶18143 1987). Trenton Bd. of Ed. and Executive Secretaries' Ass'n and Shirley Lavine, P.E.R.C. No. 83-37, 8 NJPER 574 (¶13265 1982).

The arbitrator must make a threshold determination as to whether Mercado's work performed as an EMC is work compensated under the terms of the collective negotiations agreement or is work for which compensation is prescribed by stipend. This is a factual issue which can be determined by the arbitrator.

The arbitration may proceed in accordance with this decision.



Edmund G. Gerber
Commission Designee

DATED: October 3, 1994
Trenton, New Jersey