

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

ALEXANDRIA TOWNSHIP BOARD  
OF EDUCATION,

Respondent,

- and -

Docket No. CO-84-121

ALEXANDRIA TOWNSHIP  
EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Chairman of the Public Employment Relations Commission grants interim relief in an unfair practice proceeding based on a charge the Alexandria Township Education Association filed against the Alexandria Township Board of Education. The charge alleged that the Board violated subsections 5.4(a)(1) and (5) of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., when it refused, during successor contract negotiations, to pay longevity increments allegedly due under the collective negotiations agreement to members of the Association's unit. Finding that the Association had established a substantial likelihood of success on the merits and irreparable harm, the Chairman ordered the Board to pay eligible employees the increments owed them in accordance with the prior collective negotiations agreement and the monetary difference between the amount they would have received had the increments not been unilaterally withheld and the amounts they were in fact paid after September 1, 1983.

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Appearances:

For the Respondent, Cassetta, Brandon and Taylor  
(Raymond A. Cassetta, Consultant)

For the Charging Party, Klausner & Hunter, Esqs.  
(Stephen E. Klausner, Esq.)

INTERLOCUTORY DECISION

On October 31, 1983, the Alexandria Township Education Association ("Association") filed an unfair practice charge with the Public Employment Relations Commission ("Commission"). The charge alleges that the Alexandria Township Board of Education ("Board") violated subsections 5.4(a)(1) and (5)<sup>1/</sup> when it refused to pay longevity increments to members of the bargaining unit to which they allegedly are entitled pursuant to the collective bargaining agreement.

Simultaneously with the filing of the charge and pursuant to N.J.A.C. 19:14-9.2, the Association has also filed an

<sup>1/</sup> 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." and "(5) Refusing to negotiate in good faith with a majority representative of the 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."

application for interim relief with supporting affidavit and exhibits together with a proposed order to show cause why an interlocutory order should not be issued requiring the Board to pay eligible employees salary increments as required by the recently expired collective negotiations agreement pending final disposition by the Commission at the unfair practice proceeding. The Board has been notified of this charge.

The standard in determining whether to grant such relief is settled. The charging party must establish a substantial likelihood of success on its legal and factual allegations and must demonstrate that irreparable harm will occur if the requested relief is not granted. e.g., State of New Jersey, I.R. No. 82-2, 7 NJPER 532, 533 (¶12235 1981).

The following facts essential to a resolution as to whether the application should be granted are as follows. The Board and the Association are parties to a collective negotiations agreement that expired June 30, 1983. The parties are currently negotiating a successor to that agreement. The prior agreement provides for salary increments based upon years of service to be paid September 1. The Association has requested, but the Board has refused to pay salary increments that are due September 1 under the prior agreement.

Given these undisputed facts, I am satisfied that the Association has met its burden for the grant of interim relief. It is well-settled that salary increments contained in an expired contract must be paid during the period of negotiation for a new contract. e.g., Galloway Twp. Bd. of Ed. v. Galloway Tp.

Ed. Ass'n, 78 N.J. 25 (1978). Further, it is quite clear that the failure to pay increments during negotiations establishes irreparable harm because of its "chilling effect" on the negotiations process. See State of New Jersey, at 534-535.

Accordingly, I am satisfied that the Charging Party has established a substantial likelihood of success on the merits and the requisite irreparable harm if the requested relief is denied. Therefore, the requested relief will be granted. The return date of this application for an order to show cause as to why a permanent injunctive relief should not be granted will be held December 2, 1983 at 10:00 a.m.


ORDER

IT IS HEREBY ORDERED that the Alexandria Township Board of Education immediately pay to the eligible employees in the unit represented by the Alexandria Township Education Association, the salary increment in accordance with the prior collective negotiations agreement as soon as practicable and until further order of this Commission.

IT IS FURTHER ORDERED that the Alexandria Township Board of Education pay the affected employees the monetary difference between the amount the eligible employees would have received had their increment not been unilaterally withheld and the amounts they were in fact paid subsequent to September 1, 1983.

IT IS FURTHER ORDERED that the Alexandria Township Board of Education show cause before the undersigned at Trenton, New Jersey, on the 2nd day of December, 1983 at 10 o'clock in the morning why a permanent injunctive order should not be issued

directing the Board to pay the salary increments in accordance with the prior collective negotiations agreement.

  
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James W. Mastriani  
Chairman  
Public Employment Relations Commission

DATED: TRENTON, NEW JERSEY  
November 28, 1983