

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CHERRY HILL BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-84-37

COMMUNICATIONS WORKERS OF AMERICA  
AFL-CIO,

Charging Party.

SYNOPSIS

A Commission designee denies the application of the Charging Party for interim relief wherein it was sought to restrain the Respondent from decreasing the hours for its full-time cafeteria employees from six hours (6) per day to five and one half (5½) per day, effective September 9, 1983, notwithstanding that the collective negotiations agreement, which does not expire until June 30, 1984, provides for a workday of six hours per day. It was concluded that the Charging Party failed to satisfy the "irreparable harm" standard for the grant of interim relief inasmuch as a monetary remedy could be provided at the end of the case after a plenary hearing. Not only could the affected employees be made whole in loss of wages if the Charging Party succeeds but the Commission could also award interest at the rate of 12% per annum.

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INTERLOCUTORY DECISION AND ORDER

The above matter having been opened to the Public Employment Relations Commission on September 14, 1983 by Bennet D. Zurofsky, Esq. of Reitman, Parsonnet, Maisel & Duggan, Esqs., attorneys for the Charging Party, and the Commission's named designee, Alan R. Howe, having read the Unfair Practice Charge, Affidavit by Angelina McKee and the Brief in support of the application for interim relief wherein the Charging Party seeks to restrain the Respondent from reducing the hours of work for full-time cafeteria employees from six (6) hours per day to five and one-half (5½) hours per day, effective September 9, 1983, which is alleged to be contrary to the provisions of the current collective negotiations agreement effective through June 30, 1984, inter alia, Article VIII, "Hours Of Work;" and Kenneth D. Roth, Esq. of Davis & Reberkenny, Esqs., attorneys for the Respondent, having appeared in opposition to the grant of interim relief, supra, and having filed an opposing brief and Affidavits by William Laub and Marian H. Loew and the undersigned having considered the moving and opposing papers of the parties and the oral argument of counsel for the Charging Party and the Respondent on September 14, 1983; and it appearing to the undersigned that the Charging Party has failed to satisfy one of the two standards for the grant of interim relief, namely, the demonstration of "irreparable harm" based on the following:

Commission designees have consistently denied interim relief for want of

"irreparable harm" where a monetary remedy can be provided at the end of the case after a plenary hearing. An early case, followed many times since, is City of Jersey City, P.E.R.C. No. 77-13, 2 NJPER 293 (1976), which involved an increase by five hours in the work week of white collar employees without additional compensation. The Commission's designee, in finding no satisfaction of the "irreparable harm" standard, stated:

"...it does not appear that the harm suffered by the increased hours will be irreparable. They will of course be required to work extra hours, apparently one per day, but that is remediable with money and interim relief will normally not be available to remedy a monetary wrong..." (2 NJPER at 294 ) (Emphasis supplied).

In the instant case the full-time cafeteria employees of the Respondent are being scheduled to work one-half hour less per day, or two and one-half hours per week, as a result of which their compensation will be reduced pro tanto. Not only can the Commission order the Respondent to compensate the affected employees for their direct loss in wages, in the event that the Unfair Practice Charge is sustained following a plenary hearing, but the Commission would, under its present rules, additionally order the payment of interest at the rate 12% per annum from September 9, 1983, the effective date of the change in hours. Thus, a real make whole remedy is available to the affected employees represented by the Charging Party.

\* \* \* \*

Accordingly, based on the foregoing, the request of the Charging Party for interim relief during the pendency of the Unfair Practice Charge before the Commission is DENIED.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



Alan R. Howe  
Hearing Examiner

Dated: September 16, 1983  
Newark, New Jersey