

P.E.R.C. NO. 76-25

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of
CITY OF BAYONNE,

Respondent,

- and -

Docket No. CO-76-181

NEW JERSEY STATE POLICEMEN'S BENEVOLENT
ASSOCIATION, LOCAL 7, a/k/a BAYONNE
P.B.A.,

Charging Party.

SYNOPSIS

The Executive Director, acting on behalf of the Commission, denies a request for interim relief during the pendency of an unfair practice proceeding. The employee organization charges that the employer has refused to schedule negotiating sessions, and seeks from the Commission an interim negotiating order and an order enjoining the adoption and implementation by the employer of its municipal budget. The employer has filed counter-charges essentially alleging that the parties have already negotiated to final agreement. The Executive Director determines that the employee organization has failed to demonstrate the need for interim relief.

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Appearances:

For the Charging Party, Zazzali and Zazzali, Esqs.
(Mr. Lawrence A. Whipple, Jr., of Counsel)

For the Respondent, Apruzzese and McDermott, Esqs.
(Mr. Maurice J. Nelligan, Jr., of Counsel)

INTERLOCUTORY DECISION

On January 12, 1976, the New Jersey State Policemen's Benevolent Association, Local 7, a/k/a Bayonne P.B.A. (the "P.B.A.") filed an Unfair Practice Charge with the Public Employment Relations Commission (the "Commission") alleging that the City of Bayonne (the "City") had engaged in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act, as amended, N.J.S.A. 34:13A-1 et seq. (the "Act"), in that the City has interfered with, restrained and coerced employees represented by the P.B.A. in the exercise of rights guaranteed them by the Act and in that the City has refused to negotiate in good faith with the P.B.A. by refusing to schedule negotiating sessions notwithstanding requests from the P.B.A. to commence negotiations for 1976.

On February 9, 1976, the P.B.A. filed an Application for an Order to Show Cause why interim relief should not be granted pursuant to N.J.A.C. 19:14-9.1 et seq. The undersigned, having been delegated the authority by the Commission to act upon such requests on behalf of the Commission, signed an Order to Show Cause with a return date of February 25, 1976.

The P.B.A. indicated that it was seeking an order directing the City and its designated representatives to meet at reasonable times and with reasonable promptness to negotiate in good faith concerning the terms and conditions of the 1976 collective negotiations agreement. Additionally, the P.B.A. was seeking an order enjoining the adoption and implementation by the City of its 1976 municipal budget.

The City opposed the request of the P.B.A., claiming, inter alia, that the P.B.A. had, since on or before October 3, 1975 refused to negotiate in good faith with the City "by attempting to enforce for the first time contract ratification by its membership as a condition precedent to a final agreement notwithstanding that authorized representatives of P.B.A. Local No. 7 had reached final agreement with representatives of the City on all monetary items on September 30, 1975." (See Unfair Practice Charge filed by City on October 15, 1975, Docket No. CE-76-20).

At the conclusion of the presentations of the parties on the return date, the undersigned decided to hold the determination on the request for interim relief in abeyance pending notification of the outcome of the parties' efforts to resolve this and related matters informally. The undersigned has been advised that these efforts were not successful.

In previous decisions, the undersigned has indicated that, in considering requests for interim relief, he will examine the charging party's chances for success on the legal and factual issues and whether the unfair practices alleged, if ultimately supported on the law and the facts, cannot be fully remedied by the Commission in due course. See In re Township of Little Egg Harbor, P.E.R.C. No. 94, 1 NJPER 37 (1975); In re State of New Jersey (Stockton State College), P.E.R.C. No. 76-6, 1 NJPER 41 (1975); and In re Township of Stafford, P.E.R.C. No. 76-9, 1 NJPER 54 (1975).

Having considered the written submissions and the presentations of the parties on the return date, the undersigned determines that the Charging Party has failed to demonstrate the need for interim relief in this matter. Accordingly, the instant request for interim relief is hereby denied.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



Jeffrey B. Tener
Executive Director

DATED: March 31, 1976
Trenton, New Jersey