

P.E.R.C. NO. 91-79

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF FRANKLIN,

Petitioner,

-and-

Docket No. SN-90-85

NATIONAL UNION OF PUBLIC
EMPLOYEES, LOCAL NO. 930,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies a motion for reconsideration of P.E.R.C. No. 91-66 filed by the National Union of Public Employees, Local No. 930. In that decision, the Commission restrained binding arbitration of a grievance filed by Local No. 930 against the Township of Franklin. The grievance contested the Township's decision not to reappoint a plumbing subcode official. Local No. 930 now moves for reconsideration on the basis of evidence which it asserts could not have been discovered by due diligence for the initial proceeding. In the absence of extraordinary circumstances warranting reconsideration, Local No. 930's motion is denied.

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Appearances:

For the Petitioner, Stryker, Tams & Dill, attorneys
(Ellen O'Connell, of counsel)

For the Respondent, Schneider, Cohen, Solomon, Leder &
Montalbano, attorneys (David Grossman, on the motion)

DECISION AND ORDER

On February 8, 1991, the National Union of Public Employees, Local No. 930 moved for reconsideration of P.E.R.C. No. 91-66, 17 NJPER 87 (¶22041 1991). In that decision, we restrained binding arbitration of a grievance filed by Local 930 against the Township of Franklin. The grievance contested the Township's decision not to reappoint a plumbing subcode official. We found that under N.J.S.A. 52:27D-126, the employer retained the right to determine whether the official would be reappointed to a second four-year term and thus be granted tenure. On February 22, 1991, the Township filed a reply opposing reconsideration.

Our decision was founded, in part, on a finding that the employee was appointed on March 24, 1986 to a four-year term as a

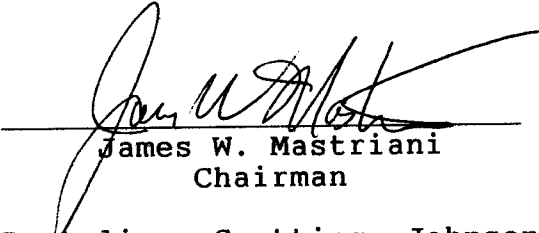
plumbing subcode official. Local 930 now contends that the employee was hired on that date as a plumbing inspector and became a plumbing subcode official on May 28, 1986. Under those facts, it claims that his four-year term would not have expired until May 28, 1990 and that, therefore, it has a right to arbitrate his early discharge. We expressed no opinion on Local 930's right to arbitrate a discharge before the expiration of the four-year term because that issue was not raised.

Local 930 now moves for reconsideration on the basis of evidence which it asserts could not have been discovered by due diligence for the initial proceeding. Even if the facts are as Local 930 now presents them, these new facts would not alter our determination on the issue presented -- did the Township have a right not to reappoint the official to a second term? In the absence of extraordinary circumstances warranting reconsideration, Local 930's motion is denied.

ORDER

The motion for reconsideration is denied.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Bertolino, Goetting, Johnson, Regan, Smith and Wenzler voted in favor of this decision. None opposed.

DATED: Trenton, New Jersey
March 28, 1991
ISSUED: March 28, 1991