

P.E.R.C. NO. 2011-8

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF ATLANTIC,

Appellant,

-and-

Docket No. IA-2007-057

FOP LODGE #34,

Respondent.

SYNOPSIS

The Public Employment Relations Commission remands an interest arbitration award to the arbitrator for clarification and issuance of a supplemental decision opinion and award. The Commission finds that the arbitrator must clarify three areas of his award relating to a \$1200 equity adjustment, eligibility for retiree health benefits and holiday pay. The parties have ten days to submit supplemental briefs addressing the issues in the supplemental award.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

P.E.R.C. NO. 2011-8

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF ATLANTIC,

Appellant,

-and-

Docket No. IA-2007-057

FOP LODGE #34,

Respondent.

Appearances:

For the Appellant, Eric M. Bernstein & Associates,  
L.L.C., attorneys (Deborah J. Bracaglia, of counsel)

For the Respondent, Selikoff & Cohen, PA, attorneys  
(Keith Waldman, of counsel)

DECISION

On April 21, 2010, the County of Atlantic appealed from an interest arbitration award involving a unit of corrections officers represented by FOP Lodge #34. See N.J.S.A. 34:13A-16f(5)(a). The arbitrator issued a conventional award, as he was required to do absent the parties' agreement to use another terminal procedure. N.J.S.A. 34:13A-16d(2). A conventional award is crafted by an arbitrator after considering the parties' final offers in light of nine statutory factors. In its appeal, the County has identified two apparent inconsistencies and we have identified one other area that we believe require clarification. Accordingly, we remand this matter to the arbitrator to clarify his ruling in the three

areas. After the issuance of a supplemental award and the filing of any supplemental briefs addressing the supplemental award, we will consider the appeal on the merits.

Among other things, the arbitrator awarded a \$1200 equity adjustment that he described as similar to the one that Arbitrator Robert Glasson had recommended be added to the maximum step in a voluntary settlement involving the County and Sheriff's officers represented by PBA Local 243 (Dkt. No. IA-2006-026). The arbitrator stated that Glasson added the \$1200 to base salary "in order to maintain experienced and qualified County Sheriff's Officers". Arbitrator's Opinion at 69. Later in his opinion, the arbitrator stated:

I incorporated the equity adjustment for the top of the December 31, 2006, Salary guide for the very same reason utilized by Arbitrator Glasson to maintain experienced and qualified Correction Officers. There is no question that the Correction Officers in Atlantic County are not paid at the same level as PBA 243. Nevertheless, to maintain a stable workforce the \$1,200 equity adjustment must be placed on Step 7 of the December 31, 2006, Salary guide.

[Arbitrator's Opinion at 83]

The arbitrator in this case did not include any further details of Glasson's analysis or reasoning. Accordingly, we remand this issue to the arbitrator for clarification of the basis for his award of the \$1200 equity adjustment. If the arbitrator was relying on reasoning in Arbitrator Glasson's

recommendation that was not included in this arbitrator's opinion, then this arbitrator should include that reasoning in a supplemental decision to be issued within 30 days.

The arbitrator also ruled that employees hired on or before December 31, 2006 shall be eligible for retiree health benefits if they have 25 or more years of pension credit and at least 15 years of full-time service with the County; employees hired on or after January 1, 2010 will need at least 25 years of service with the County. We remand this issue to the arbitrator to explain the eligibility requirements for employees hired in 2007, 2008 and 2009.<sup>1/</sup>

Finally, the County proposed that holidays be paid at straight time rather than overtime rates of time and one half. At page 87 of his Opinion and Award, the arbitrator states that "Unfortunately, the County's position cannot be sustained because they had bargained that in the past and even though we have different economic circumstances now, nothing has been presented to me to have that removed from the equation of benefits." Yet on page 93 of his Opinion and Award, the arbitrator states that "modification of retiree health benefits as of January 1, 2010 and the elimination of ten (10) holidays from mandatory overtime will reduce the County's overall costs for the FOP 34 bargaining

---

<sup>1/</sup> In its brief, the FOP asserts that because the change is not effective until 2010, the status quo is maintained for 2007, 2008 and 2009. If that is the case, the arbitrator should so clarify.

unit." We note that both parties proposed that officers shall have the option to refuse mandatory overtime (except in emergent situations) two times within each calendar year without being subject to disciplinary action. The arbitrator awarded the substance of that proposal. We are not clear, however, how acceptance of the mandatory overtime proposal and rejection of the County's holiday overtime proposal will "reduce the County's overall costs." Accordingly, we remand this issue to the arbitrator to clarify what he meant at page 93.<sup>2/</sup>

ORDER

This matter is remanded to the arbitrator to issue a supplemental Opinion and Award within 30 days. The parties shall then have ten days to file supplemental briefs addressing the issues in the supplemental award.

BY ORDER OF THE COMMISSION

Commissioners Colligan, Eaton, Krengel, Voos and Watkins voted in favor of this decision. None opposed. Commissioner Fuller abstained.

ISSUED: August 12, 2010

Trenton, New Jersey

---

<sup>2/</sup> In its brief, the FOP asserts that the arbitrator's statement refers to giving correction officers the right to decline mandatory overtime twice in one year except for on three specifically named holidays. We are not clear that this is what the arbitrator was referring to since, presumably, if an officer declines mandatory overtime, another officer will be required to work that overtime and there will be no savings to the County.