

P.E.R.C. NO. 2011-21

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF MOUNT OLIVE,

Respondent,

-and-

Docket No. IA-2009-046

MOUNT OLIVE FRATERNAL ORDER OF POLICE,
LODGE NO. 122,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission dismisses an appeal of a decision issued by an interest arbitrator clarifying language set forth in a voluntary settlement between the Mount Olive Fraternal Order of Police Lodge No. 122 and the Township of Mount Olive. The Commission holds that the arbitrator's decision on its face is a clarification of the parties' voluntary settlement and that, therefore, the FOP's submission is not an appeal of an interest arbitration 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. 2011-21

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF MOUNT OLIVE,

Respondent,

-and-

Docket No. IA-2009-046

MOUNT OLIVE FRATERNAL ORDER OF POLICE,
LODGE NO. 122,

Petitioner.

Appearances:

For the Respondent, Scarinci Hollenbeck (Adam S.
Abramson, of counsel)

For the Petitioner, Markowitz & Richman (Stephen C.
Richman, of counsel)

DECISION

On July 26, 2010, Mount Olive Fraternal Order of Police, Lodge No. 122 filed an appeal of a decision issued by an interest arbitrator clarifying language set forth in a voluntary settlement between the FOP and the Township of Mount Olive. The interest arbitrator mediated the voluntary settlement and retained jurisdiction over specific disputes related to the parties' memorandum of agreement (MOA).^{1/} On August 4, a member of our staff requested that the FOP file a brief explaining how its submission constitutes an appeal of an interest arbitration

^{1/} The MOA states that the arbitrator "shall retain full jurisdiction pending final ratification and approval including any dispute over the specific terms of the MOA."

award pursuant to N.J.A.C. 19:16-8.1. On August 11, the FOP filed its brief and on August 26, the Township responded. The FOP also filed an unfair practice charge, Docket No. CO-2010-446, related to the same dispute alleging that the Township violated N.J.S.A. 34:13A-5.4 (1), (5) and (6).^{2/} We dismiss the FOP's appeal.

The FOP acknowledges that it has not filed an ordinary interest arbitration appeal, but requests that we process it because the arbitrator improperly asserted jurisdiction over the dispute that arose from the voluntary settlement. It argues that the arbitrator was divested of jurisdiction when the parties ratified the MOA; the request to the arbitrator for clarification was not a joint request and was only solicited by the Township; the arbitrator should not have issued a decision while the FOP's unfair practice charge was pending; and if we do not consider the arbitrator's decision to be an interest arbitration award, then it has no binding effect on the parties.

^{2/} These provisions 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 . . . (5) Refusing to negotiate in good faith with a majority representative of 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. (6) Refusing to reduce a negotiated agreement to writing and to sign such agreement."

The Township responds that we should dismiss the appeal. It argues that the arbitrator continues to retain jurisdiction in this matter; the arbitrator's decision is binding; the FOP had previously taken the position that the arbitrator retained jurisdiction when it had a prior dispute over the terms of the MOA; and the arbitrator's decision does not meet the basic requirements for an interest arbitration award.

The arbitrator's decision on its face is a clarification of the parties' voluntary settlement. This dispute is over the arbitrator's role in the clarification of that settlement. It does not involve an appeal of an interest arbitration award. Accordingly, we dismiss the appeal. We do not reach the issue of whether the arbitrator's clarification is binding on the parties. The parties' arguments on this issue can be raised in the unfair practice proceedings.

ORDER

Mount Olive Fraternal Order of Police, Lodge No. 122's
appeal is dismissed.

BY ORDER OF THE COMMISSION

Commissioners Colligan, Eaton, Fuller, Voos and Watkins voted in favor of this decision. None opposed. Commissioner Krengel was not present.

ISSUED: September 23, 2010

Trenton, New Jersey