

P.E.R.C. NO. 2011-62

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Respondent,

-and-

Docket Nos. CO-2007-070
CO-2007-071

NEWARK POLICE SUPERIOR
OFFICERS' ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission adopts the initial decision of a an Administrative Law Judge in an unfair practice case that was transferred to the Office of Administrative Law for hearing. The decision finds that the parties' settlement agreement meets the requirements of N.J.A.C. 1:1-19.1.

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.

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Respondent,

-and-

Docket Nos. CO-2007-070
CO-2007-071

NEWARK POLICE SUPERIOR
OFFICERS' ASSOCIATION,

Charging Party.

Appearances:

For the Respondent, Julien X. Neals, Corporation
Counsel (David Gambert, Assistant Corporation Counsel,
on the brief)

For the Charging Party, Markowitz & Richman (Matthew D.
Areman, of counsel)

DECISION

This case comes to us to issue a final decision after an
Administrative Law Judge issued an Initial Decision on January
13, 2011.^{1/}

On August 31, 2006, the Newark Police Superior Officers
Association filed unfair practice charges against the City of
Newark. The charges allege that the City violated the New Jersey
Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., when
it repudiated on side agreements reached with the SOA concerning
the terms and conditions of employment of new police scuba and

^{1/} The Initial Decision is attached hereto in the appendix.

helicopter units. On June 25, 2007, the Director of Unfair Practices consolidated the charges and issued a complaint and Notice of Hearing. On August 16, the SOA filed a motion for summary judgment and on September 29, the City filed a cross motion for summary judgment. On December 20, we issued a decision denying the motion and cross-motion for summary judgment. P.E.R.C. No 2008-34, 33 NJPER 316 (¶120 2007) recon. denied P.E.R.C. No. 2008-53, 34 NJPER 71 (¶29 2008).^{2/} The case was transferred to the Office of Administrative Law for hearing because a Commission employee may have been a witness at the hearing. During the course of the proceedings before the ALJ, the parties engaged in settlement discussions and ultimately entered into a settlement agreement. Pursuant to the Agreement, the City shall make reasonable efforts to comply with its payment obligations within 60 days. Upon the City's compliance with the payment requirements, the SOA will withdraw the unfair practice charges. The Initial Decision finds that the Agreement meets the requirements of N.J.A.C. 1:1-19.1. We agree and adopt the Initial Decision.

^{2/} A third charge, CO-2007-105, was filed by the SOA and consolidated with CO-2007-070 and CO-2007-071. The SOA in CO-2007-105 alleged that the City refused to recognize a grievance settlement regarding vacation time for superior officers. The SOA's motion for summary judgment was granted on that charge.

ORDER

The Initial Decision is adopted.

BY ORDER OF THE COMMISSION

Chair Hatfield, Commissioners Bonanni, Colligan, Eaton, Eskilson, Krengel and Voos voted in favor of this decision. None opposed.

ISSUED: February 24, 2011

Trenton, New Jersey

APPENDIX

City of Newark and Newark Police Superior Officers Association,

OAL Dkt. No. PRC 03340-09, January 13, 2011.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PRC 03340-09

AGENCY DKT. NO. CO-2007-070, 071 & 105

**IN THE MATTER OF CITY OF
NEWARK, NEWARK POLICE SOA**

Matthew D. Areman, Esq. on behalf of petitioner (Markowitz & Richman)

David Gambert, Esq., for respondent (Julien X. Neals, Corporation Counsel)

Record Closed: January 10, 2011

Decided: January 13, 2011

BEFORE **WALTER M. BRASWELL, ALJ:**

This matter was transmitted to the Office of Administrative Law (OAL) on March 17, 2009, for resolution as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F1 to -13. On May 5, 2009 a telephone prehearing was conducted during which time evidentiary hearings were scheduled for December 21 & 22, 2009. The December hearing dates were converted into a status conference. Several hearings and status conferences were scheduled wherein the parties discussed a potential resolution in this matter.

Prior to the January 3, 2011 hearing date the parties requested that the matter be adjourned pending the execution of the settlement agreement. On January 10, 2011 the

OAL received a fully executed copy of the Settlement Agreement. The settlement indicating the terms of agreement is incorporated herein by reference.

Having reviewed the contents of the attached Settlement Agreement, I **FIND**:

1. The parties have voluntarily agreed to the settlement as evidenced by their signatures and/or the signatures of their representatives.
2. The settlement fully disposes of all issues in controversy and is consistent with the law.

I **CONCLUDE** that this agreement meets the requirements of N.J.A.C. 1:1-19.1 and that the settlement should be approved. I approve the settlement and, therefore **ORDER** that the parties comply with the settlement terms and that these proceedings be concluded.

I hereby **FILE** my initial decision with the **PUBLIC EMPLOYMENT RELATIONS COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **PUBLIC EMPLOYMENT RELATIONS COMMISSION**, which by law is authorized to make a final decision in this matter. If the Public Employment Relations Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

1-13-11

DATE


WALTER M. BRASWELL, ALJ

Date Received at Agency:

Date Mailed to Parties:

ljb