

P.E.R.C. NO. 91-30

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY
(DEPARTMENT OF TRANSPORTATION),

Respondent,

-and-

Docket No. CO-90-354

IFPTE, LOCAL 195, AFL-CIO,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies motions for reconsideration and summary judgment filed by IFPTE, Local 195, AFL-CIO against the State of New Jersey (Department of Transportation). The Commission finds that the extraordinary circumstances warranting reconsideration of a designee's interim relief order are not present here. The Commission also finds that the motion for summary judgment is premature since a Complaint has not yet issued.

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Appearances:

For the Respondent, Robert J. Del Tufo, Attorney General
(Stephen M. Schwartz, Deputy Attorney General)

For the Charging Party, Balk, Oxfeld, Mandell & Cohen,
attorneys (Arnold S. Cohen, of counsel)

DECISION AND ORDER

On July 20, 1990, IFPTE, Local 195, AFL-CIO filed an appeal from an interlocutory decision of a Commission designee and a motion for summary judgment. In I.R. No. 91-1, 16 NJPER 417 (¶21173 1990), the designee denied an application for interim relief based on an unfair practice charge alleging that the State of New Jersey (Department of Transportation) repudiated its collective negotiations agreement with Local 195 and violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.4(a)(1), (3) and (7)^{1/} by refusing to provide financial analysis reports concerning

^{1/} These subsections 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. (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this act. (7) Violating any of the rules and regulations established by the commission."

subcontracting of highway landscaping operations. He found that the parties' contract could be read to limit discussion of subcontracting to situations where employees will be laid off and that no employees were laid off. He questioned whether the employer must supply financial information under the parties' agreement and therefore denied interim relief since the requisite standards for the issuance of such an order had not been met.

IFPTE argues that even if there is no contractual duty to consult, the employer must still provide the information because it is relevant to contract administration. The employer responds that: (1) IFPTE cannot appeal an interim relief decision; (2) the motion for summary judgment is premature since no Complaint has yet issued, and (3) several genuine issues of material fact preclude summary judgment.

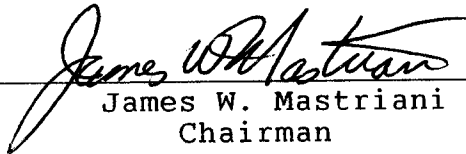
Although we have entertained motions for reconsideration of a designee's interim relief order, see, e.g., State of New Jersey, P.E.R.C. No. 87-21, 12 NJPER 744 (¶17279 1986), the extraordinary circumstances warranting reconsideration are not present here. N.J.A.C. 19:14-8.4.

Also, N.J.A.C. 19:14-4.8 provides that motions for summary judgment may only be made after a Complaint issues. Accordingly, we dismiss that motion as premature.

ORDER

The motions for reconsideration and summary judgment are denied.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

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

DATED: Trenton, New Jersey
September 27, 1990
ISSUED: September 28, 1990