

P.E.R.C. NO. 91-86

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PBA LOCAL 206 (ORADELL UNIT),

Petitioner,

-and-

Docket No. ID-91-2

BOROUGH OF ORADELL,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines that a bereavement leave proposal is non-economic and an emergency leave proposal is economic. The petition for issue definition determination was filed by PBA Local 206 (Oradell unit) concerning a dispute with the Borough of Oradell.

P.E.R.C. NO. 91-86

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PBA LOCAL 206 (ORADELL UNIT),

Petitioner,

-and-

Docket No. ID-91-2

BOROUGH OF ORADELL,

Respondent.

Appearances:

For the Petitioner, Alfred G. Osterweil, attorney  
(Craig Kozan, of counsel)

For the Respondent, DeCotiis & Pinto, attorneys  
(David V. Nasta, of counsel)

DECISION AND ORDER

On February 7, 1991, PBA Local 206 (Oradell Unit) petitioned for an issue definition determination. The PBA asserts that two proposals to amend current leave allowances made by the Borough of Oradell should be classified as economic issues for the purpose of interest arbitration pursuant to N.J.S.A. 34:13A-16f(2).

The parties have filed briefs. These facts appear.

The PBA represents the Borough's patrol officers and sergeants. The parties' last collective negotiations agreement expired on December 31, 1990. The parties are engaged in interest arbitration. Articles 35 and 36 govern bereavement and emergency leave. They read:

BEREAVEMENT LEAVE

1. Permanent full time officers shall be granted up to three (3) days leave without loss of regular pay upon the death of a member of his immediate family.
2. Immediate family shall be defined as the officer's spouse, children, parents, brother, sister, mother-in-law, father-in-law or grandparents of the employee or spouse.
3. Reasonable verification of the event may be required by the Borough.
4. Bereavement leave may be granted at the sole discretion of the Chief of Police in the event of the death of a brother-in-law or sister-in-law and such time to be deducted from the officer's holiday or vacation time.
5. Any extension of absence under this Article, however, may be at the officer's option, and with the consent of the Chief of Police, be charged against available holiday or vacation time or be taken without pay for a reasonable period.

EMERGENCY LEAVE

1. In the event of the birth of a child to the officer's wife or the death of a close relative living in the household of the officer, who has resided there for a period of at least one (1) year, then the officer shall be allowed up to three (3) working days leave of absence with pay.
2. A member of the Department may be granted emergency leave for any reason by the Public Safety Committee upon recommendation and report from the Chief of Police or officer in charge of the Department in the absence of the Chief.

The Borough has proposed that the articles be amended to

read:

BEREAVEMENT LEAVE

1. Permanent full time officers shall be granted up to three (3) days leave without loss of regular pay upon the death of a member of his

immediate family. Said leave may be taken only during the five (5) day period immediately subsequent to the death of a member of his immediate family.

2. - 5. No changes.

#### EMERGENCY LEAVE

1. No change.

2. A member of the Department may be granted emergency leave for any reason without pay by the Public Safety Committee upon recommendation and report from the Chief of Police or officer in charge of the Department in the absence of the Chief.

N.J.S.A. 34:13A-16f(2) defines an economic issue for purposes of interest arbitration:

Economic issues include those items which have a direct relation to employee income including wages, salaries, hours in relation to earnings and other forms of compensation such as paid vacation, paid holidays, health and medical insurance, and other economic benefits to employees.

The bereavement leave proposal is non-economic. It does not affect the paid days set aside for bereavement. The economic impact, if any, of this proposed limitation is at best speculative and indirect. Compare Washington Tp., P.E.R.C. No. 83-142, 9 NJPER 285 (¶14133 1983) (expansion of class of relatives covered by bereavement leave proposal is economic).

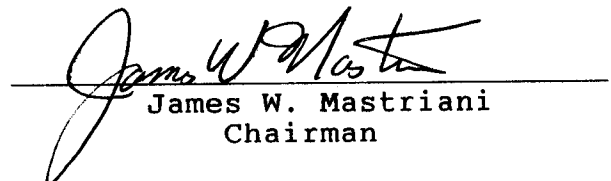
The PBA asserts that the emergency leave proposal is economic because absent the proposed modification an employee could receive paid emergency leave. The Borough responds that emergency leave is discretionary and no employee has ever been granted a paid emergency leave. It asserts that the proposal simply clarifies the present practice that such leaves are without pay.

The Borough's proposed modification of the emergency leave clause is economic. The present clause could allow the granting of a leave with pay. Under the proposed change no paid leave would be possible. Even though under either proposal the granting of a leave would be at the Borough's discretion, the proposal affects an economic issue -- paid leaves of absence. Cf. Willingboro Bd. of Ed. and Willingboro Ed. Ass'n, P.E.R.C. No. 80-46, 5 NJPER 475 (¶10240 1979), aff'd P.E.R.C. No. 80-75, 5 NJPER 553 (¶10287 1979), aff'd App. Div. Dkt. No. A-1756-79 (12/8/80), certif. den. 87 N.J. 320 (1981) (language giving Board discretion to grant or deny sabbatical leave requests did not render issue non-negotiable). The Borough's arguments concerning the actual practice under the present language can be made to the arbitrator to buttress its contention that the amendment would leave employee compensation levels unchanged. However, economic proposals which do not alter present compensation levels remain economic. Bor. of Manasquan, P.E.R.C. No. 82-128, 8 NJPER 403 (¶13185 1982).

ORDER

The bereavement leave proposal is non-economic. The emergency leave proposal is economic.

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