

P.E.R.C. NO. 2002-39

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CAMDEN COUNTY HEALTH SERVICES  
CENTER,

Petitioner,

-and-

Docket No. SN-2002-11

AFSCME, COUNCIL 71, LOCAL 2307,

Respondent.

SYNOPSIS

The Public Employment Relations Commission dismisses a scope of negotiations petition filed by the Camden County Health Services Center. The County seeks a determination that establishing call-in procedures for sick leave is a managerial prerogative not subject to negotiations with AFSCME, Council 71, Local 2307. The Commission finds that there is no demand to arbitrate, there is no proposal in dispute during negotiations for a successor agreement, and the employer has not set forth any special circumstances warranting the exercise of the Commission's scope of negotiations jurisdiction. The petition is dismissed without prejudice to the filing of another petition in the event of an actual dispute.

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.

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Appearances:

For the Petitioner, Brown & Connery, LLP, attorneys  
(Christine P. O'Hearn, on the brief)

For the Respondent, Szaferman, Lakind, Blumstein, Watter,  
Blader, Lehmann & Goldshore, P.C.  
(Stuart A. Tucker, on the brief)

DECISION

On October 17, 2001, the Camden County Health Services Center petitioned for a scope of negotiations determination. The employer seeks a determination that establishing call-in procedures for sick leave is a managerial prerogative not subject to negotiations with AFSCME, Council 71, Local 2307.

The parties have filed briefs and exhibits. These facts appear.

The Center is a long-term care medical facility. AFSCME represents certain of its employees. The parties' collective negotiations agreement is effective from January 1, 1999 through December 31, 2002.

Article IX is entitled Sick Leave. Paragraph 4 provides:

An employee who does not expect to report to work on any working day must notify the appropriate office by telephone or personal messenger within one (1) hour after the beginning hours for those on steady day work. Failure to give such notice may be cause for denial of the use of sick leave for that absence. Other than steady day work, employees must call in at least one hour before the start of the shift.

N.J.S.A. 34:13A-5.4d empowers the Commission, upon the request of any public employer or exclusive representative, to determine whether a matter in dispute is within the scope of negotiations. N.J.A.C. 19:13-2.2(a)(4) requires that a petition specify that the dispute has arisen:

- i. During the course of collective negotiations, and that one party seeks to negotiate with respect to a matter or matters which the other party contends is not a required subject for collective negotiations; or
- ii. With respect to the negotiability of a matter or matters sought to be processed pursuant to a collectively negotiated grievance procedure; or
- iii. Other than in subparagraphs i and ii above, with an explanation of the circumstances.

The Statement of Dispute section of the employer's scope petition reads, in part:

CCHSC desires to change the call-in procedures for sick leave. The present procedures are causing significant staffing and administrative difficulties since it permits employees to call out as late as one hour (1) after their start time. CCHSC files this Petition for Scope of Negotiations Determination with PERC seeking a

determination that the establishment of call-in procedures for sick leave is a managerial prerogative and is not subject to collective bargaining. CCHSC does so and requests that PERC consider the Petition under special circumstances. CCHSC believes that having this issue resolved in this manner is in the best interest of all parties, will maintain existing labor relations, and will avoid possible confrontation between labor and management regarding this issue.

The Center asserts that call-in procedures are part of an employer's sick leave verification policy and therefore not negotiable. It seeks to have us rule that it may implement new call-in procedures unilaterally.

AFSCME asserts that Article IX is not a sick leave verification policy, but a provision that sets the time by which an employee must call in sick. AFSCME also asserts that there is no pending grievance or negotiations and that the employer has not set forth any special circumstances warranting the exercise of our scope of negotiations jurisdiction. Finally, AFSCME asserts that the employer has not explained the circumstances that give rise to the alleged dispute, but simply wishes to eliminate a clause that it finds inconvenient.

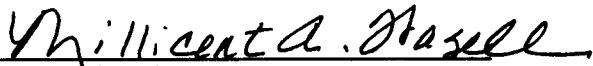
We agree with AFSCME that we lack jurisdiction under N.J.A.C. 19:13-2.2(a)(4). The employer has not shown that any special circumstances warrant our ruling on its petition. While it states the call-in procedures have resulted in staffing and administrative difficulties, it has not specified what those difficulties are. Nor has the employer set forth its anticipated

changes to the current call-in procedures. There is no demand to arbitrate a grievance over this issue and there is no proposal in dispute during collective negotiations for a successor agreement. Accordingly, we will dismiss the scope petition without prejudice to the Center's filing another in the event of an actual dispute.

ORDER

The petition is dismissed without prejudice to the Center's filing another petition in the event of an actual dispute.

BY ORDER OF THE COMMISSION

  
Millicent A. Wasell  
Millicent A. Wasell  
Chair

Chair Wasell, Commissioners Buchanan, Katz, McGlynn, Muscato, Ricci and Sandman all voted in favor of this decision. None opposed.

DATED: January 31, 2002  
Trenton, New Jersey  
ISSUED: February 1, 2002