

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

EVESHAM TOWNSHIP BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-H-95-30

EVESHAM TOWNSHIP EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint based on an unfair practice charge filed by the Evesham Township Education Association against the Evesham Township Board of Education. The charge alleges that the Board violated the New Jersey Employer-Employee Relations Act when, during negotiations for a successor collective negotiations agreement, it unilaterally changed terms and conditions of employment by refusing to advance unit members to the next step on the salary guide. A Commission designee ordered the Board to immediately pay eligible employees the salary increments due them pursuant to the incremental salary structures and the expired collective negotiations agreement. I.R. 95-10, 21 NJPER 3 (¶26001 1994). The parties then stipulated that the Board had complied with the interim order and had paid the salary increments. In the absence of exceptions, the Commission adopts the Hearing Examiner's conclusion that this dispute is resolved and that the unfair practice charge is moot.

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 Respondent, Capehart & Scatchard, P.A., attorneys
(Alan R. Schmoll, of counsel)

For the Charging Party, Selikoff & Cohen, P.A., attorneys
(Steven R. Cohen, of counsel)

DECISION AND ORDER

On October 5, 1994, the Evesham Township Education Association filed an unfair practice charge against the Evesham Township Board of Education. The charge alleges that the Board violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically subsections 5.4(a)(1), (5) and (7),^{1/} when, during negotiations for a successor collective

^{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. (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. (7) Violating any of the rules and regulations established by the commission."

negotiations agreement, it unilaterally changed terms and conditions of employment by refusing to advance unit members to the next step on the salary guide.

The Association also filed an application for interim relief. On October 28, 1993, a Commission designee ordered the Board to immediately pay eligible employees the salary increments due them pursuant to the incremental salary structures in the expired collective negotiations agreement. I.R. No. 95-10, 21 NJPER 3 (¶26001 1994). He relied on the Supreme Court's decision in Galloway Tp. Bd. of Ed. v. Galloway Tp. Ed. Ass'n, 78 N.J. 25 (1978), and numerous other decisions ordering payment of automatic increments during negotiations. See, e.g., Hudson Cty. P.E.R.C. No. 78-48, 4 NJPER 87 (¶4041 1978), aff'd NJPER Supp. 2d 62 (¶44 1979).

On November 10, 1994, a Complaint and Notice of Hearing issued. The parties then stipulated that the Board had complied with the interim order and had paid the salary increments. On February 16, 1995, Hearing Examiner Edmund G. Gerber recommended dismissing the Complaint as moot.

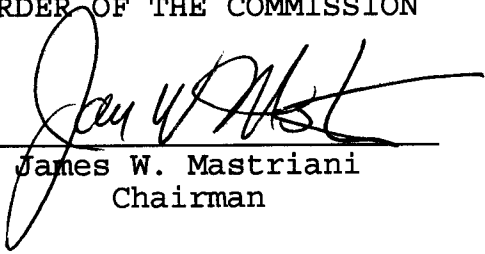
The Hearing Examiner served his decision on the parties and informed them that exceptions were due March 2, 1995. Neither party filed exceptions.

We have reviewed the record including the parties' stipulation. In the absence of exceptions, we adopt the Hearing Examiner's conclusion that this dispute is resolved and that the unfair practice charge is moot. Accordingly, we dismiss the Complaint.

ORDER

The Complaint is dismissed.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Buchanan, Finn and Klagholz voted in favor of this decision. None opposed. Commissioner Boose abstained from consideration. Commissioners Ricci and Wenzler were not present.

DATED: April 10, 1995
Trenton, New Jersey
ISSUED: April 11, 1995

H.E. NO. 95-18

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EVESHAM TOWNSHIP EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

A Hearing Examiner recommends that the Commission find that the charge filed by the Association moot and dismiss the unfair practice. The Association originally filed an application for interim relief alleging that the Board unilaterally changed the terms and conditions of employment by refusing to advance unit members to the next step of the salary guide during the negotiations for a successor to the recently expired collective negotiations agreement. The application was granted and the Board was ordered to pay the increments. The Board complied with the Order and the increments were paid.

A Hearing Examiner's Recommended Report and Decision is not a final administrative determination of the Public Employment Relations Commission. The case is transferred to the Commission which reviews the Recommended Report and Decision, any exceptions thereto filed by the parties, and the record, and issues a decision which may adopt, reject or modify the Hearing Examiner's findings of fact and/or conclusions of law.

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(Alan R. Schmoll, of counsel)

For the Charging Party,
Selikoff & Cohen, attorneys
(Steven R. Cohen, of counsel)

HEARING EXAMINER'S REPORT
AND RECOMMENDED DECISION

On October 5, 1994, the Evesham Township Education Association filed an unfair practice charge with the Public Employment Relations Commission alleging that the Evesham Township Board of Education engaged in unfair practices within the meaning of N.J.S.A. 34:13A-5.4(a)(1), (5) and (7).^{1/} The Association alleges

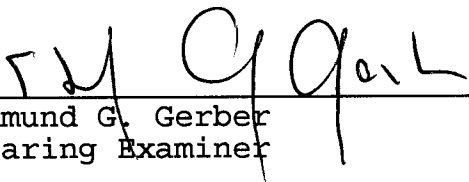
^{1/} These subsections prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act. (5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative. (7) Violating any of the rules and regulations established by the commission."

that during negotiations for a successor agreement to the recently expired 1992-1994 agreement, the Board unilaterally changed terms and conditions of employment by refusing to advance unit members to the next step of the 1993-1994 salary guide as of July 1, 1994.

The Association filed an application for interim relief. The application was granted (I.R. No. 95-10, 21 NJPER 3 (¶26001 1995) and the Board was ordered to pay salary increments. The Board has complied with the order and paid the salary increment.

It is apparent that this dispute is resolved and the charge is moot. The Commission will not exercise its judgment in moot disputes. Delran Tp. B/E, P.E.R.C. No. 95-17, 20 NJPER 379 (¶25191 1994); Rutgers University, P.E.R.C. No. 88-1, 13 NJPER 631 (¶18235 1985) aff'd App. Div. Dkt No. A-174-87T7 (11/23/88); Matawan Aberdeen Reg. Schl. Dist., P.E.R.C. No. 88-52, 14 NJPER 57 (¶19019 1987).

Accordingly, I recommend the Commission find the matter moot and dismiss the unfair practice charge.


Edmund G. Gerber
Hearing Examiner

Dated: February 16, 1995
Trenton, New Jersey