

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF ATLANTIC,

Petitioner,

-and-

Docket No. SN-83-65

JNESO OF NJSNA,

Respondent.

SYNOPSIS

A Commission designee temporarily restrains arbitration in a matter concerning the interpretation of the amendment to N.J.S.A. 34:13A-5.3 concerning arbitration of a disciplinary matter.

The arbitration concerns the review of a disciplinary three-day suspension of a Civil Service employee. Since the question of whether Civil Service employees are completely excluded from bringing disciplinary questions to arbitration is a matter of first impression before the Commission and its interpretation of the statute is uncertain, the arbitration was temporarily restrained pending a decision by the full Commission.

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Appearances:

For the Petitioner  
Martin R. Pachman, P.A.

For the Respondent  
Zazzali, Zazzali & Kroll, Esqs.  
(James R. Zazzali, Esq.)

INTERLOCUTORY DECISION AND ORDER


The above matter having been opened to the Public Employment Relations Commission on January 24, 1983, by Martin Pachman, Esq., attorney for the petitioner, and the Commission's named designee Edmund Gerber having read the Scope of Negotiations Petition and accompanying Notice of Motion for Restraint of Arbitration and brief in support thereof; and further having read the letter in opposition to the issuance of restraints from James Zazzali, and Mr. Zazzali having personally expressed to the undersigned that he has waived his right to make oral argument and/or file a brief, the undersigned hereby temporarily restrains arbitration in the matter of Elizabeth Kemenosh, a nurse under Civil Service employed by the County of Atlantic at the County's Meadow-

view Nursing Home, Docket No. AR-83-106, brought by JNESO of NJSNA.

The arbitration in question concerns a disciplinary suspension of less than five days imposed upon Kemenosh, a Civil Service employee. The amendments to N.J.S.A. 34:13A-5.3, P.L. 1982, Chapter 103, states that public employees and majority representatives of public employees may negotiate over "disciplinary review procedures" provided that "the procedures agreed to by the parties may not replace or be inconsistent with any alternate statutory appeal procedure nor may they provide for binding arbitration of disputes involving the discipline of employees with statutory protection under tenure or Civil Service laws."

This being a matter of the issue of whether employees with Civil Service protection are completely excluded from bringing disciplinary questions to arbitration as argued by the petitioner or whether this statute applies only to matters where disciplinary actions are for suspensions for five days or greater and therefore not subject to Civil Service review is a question of first impression before this Commission. Since the answer to this question of interpretation of the statute is in doubt, the arbitration AR-83-106 is temporarily restrained until the Commission can make a scope of negotiations determination on the instant petition. <sup>1/</sup>

BY ORDER OF THE COMMISSION

  
 Edmund G. Gerber  
 Commission Designee

DATED: February 4, 1983  
 Trenton, New Jersey

<sup>1/</sup> See Bd/Ed of Englewood v. Englewood Teachers Assn., 135 N.J.S. 120 (App. Div. 1975) where the court stated if the results of a given scope proceeding would negate arbitration, the prosecution of arbitration proceedings in the interim would constitute a monumental waste of energy.