

I.R. NO. 95-15

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF TEANECK,

Respondent,

-and-

Docket No. CO-95-237

TEANECK FMBA LOCAL 42,

Charging Party.

SYNOPSIS

A Commission Designee declines to restrain the Township of Teaneck from refusing to allow certain on-duty firefighters to attend regular monthly union meetings. The Township argued that having on-duty firefighters away from their firehouses would increase the response time to fires as much as 8 1/2 minutes and the Township felt that was unacceptable. To the degree the Township's action went to the delivery of necessary services to the community, the Township's decision was a non-negotiable managerial prerogative.

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Appearances:

For the Respondent,  
Peckar & Abramson, attorneys  
(Andrea Morganelli, of counsel)

For the Charging Party,  
William J. Brennan, President FMBA Local 42

INTERLOCUTORY DECISION

On January 18, 1995, Teaneck FMBA Local 42 filed an unfair practice charge against the Township of Teaneck alleging the City violated N.J.S.A. 34:13A-5.4(a)(5)<sup>1/</sup> when on Thursday, January 12, 1995 Chief William Norton unilaterally changed working conditions by refusing to allow certain on-duty firefighters from attending regular monthly FMBA meetings. It was further alleged that this change occurred while the parties were engaged in interest arbitration for a successor agreement and the right of the FMBA to

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<sup>1/</sup> This subsection prohibits 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.

hold such meeting is on a list of non-economic issues before the interest arbitrator.

The unfair practice charge was accompanied by an order to show cause which was executed and made returnable for January 31, 1995.

The Township admits that Chief Norton refused to allow firefighters from outlying firehouses to attend the union meetings at fire headquarters. It argues that it had a managerial prerogative to determine and implement manning levels.

The standards that have been developed by the Commission for evaluating interim relief requests are similar to those applied by the Courts when addressing similar applications. The moving party must demonstrate that it has a substantial likelihood of success on the legal and factual allegations in a final Commission decision and that irreparable harm will occur if the requested relief is not granted. Further, in evaluating such requests for relief, the relative hardship to the parties in granting or denying the relief must be considered.<sup>2/</sup>

It is not disputed that prior to January 12, 1995, the union held its meetings at fire headquarters. All on-duty fire officers from the outlying firehouses would bring their fire

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2/ Crowe v. DeGioia, 90 N.J. 126 (1982); Tp. of Stafford, P.E.R.C. No. 76-9, 1 NJPER 59 (1975); State of New Jersey (Stockton State College), P.E.R.C. No. 76-6, 1 NJPER 41 (1975); Tp. of Little Egg Harbor, P.E.R.C. No. 94, 1 NJPER 36 (1975).

fighting apparatus with them to headquarters so in the event of a fire alarm, they could immediately respond.

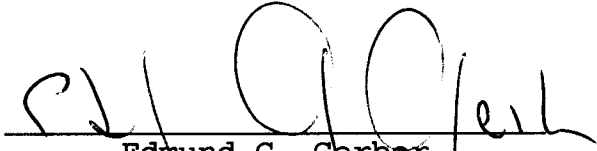
Chief Norton testified that he believes this practice unduly increased the response time for firefighters. During the past summer, the Township closed two of its four outlying fire houses. The FMBA and the Superior Officers Association had compiled statistics showing that response times to certain areas of the Township increased over eight minutes because of the closing of the fire houses. Norton was not a fire chief at this time and participated in a union campaign that went house to house to generate support to have the fire houses reopened. The unions were successful and the firehouses were reopened.

Norton believes that conducting the union meeting during duty-time results in the same hazard as closing firehouses; response time goes up as much as 8 1/2 minutes. Accordingly, he ordered this practice to cease.

It is undisputed that other meetings where all on-duty firefighters from the outlying fire houses report continue to be scheduled at headquarters. There was a recent series of meetings concerning the City's deferred compensation plan. Also safety and instructional meetings are held at the fire houses for on-duty firefighters.

The charging party has a heavy burden. Although the continued scheduling of other meetings at the fire headquarters raises a question as to credibility, a legitimate issue concerning

the safety of the community remains. Under these particular circumstances, this matter can only be resolved after a full plenary hearing. The application for interim relief is denied.



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Edmund G. Gerber  
Commission Designee

DATED: February 14, 1995  
Trenton, New Jersey