

I.R. NO. 91-23

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF ESSEX,

Respondent,

-and-

Docket No. CO-91-308

ESSEX COUNTY POLICEMAN'S
BENEVOLENT ASSOCIATION, LOCAL 54,

Charging Party.

SYNOPSIS

PBA Local 54 sought a restraint of certain lay-offs, demotions and transfers of police functions performed by the Essex County Police force and the duties performed by the Essex County Police were being assigned to the Essex County Sheriff. Due to the fact dispute as to the history of the assignment of unit work, the PBA did not establish that it had a substantial likelihood of success in prevailing on this matter.

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Appearances:

For the Respondent
Genova, Burns & Schott, attorneys
(Stephen E. Trimboli, of counsel)

For the Charging Party
Dr. Simon M. Bosco, consultant

INTERLOCUTORY DECISION

On May 14, 1991, the Essex County Policeman's Benevolent Association, Local 54 ("PBA"), filed an unfair practice charge and an Order to Show Cause with the Public Employment Relations Commission ("Commission") alleging that the County of Essex ("County") violated N.J.S.A. 34:13A-5.4(a)(1), (2), (3) and (5)^{1/}

^{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. (2) Dominating or interfering with the formation, existence or administration of any employee organization. (3) Discriminating in regard to hire or tenure of employment or any term or condition of

when it laid off members of the Essex County police force, demoted others and transferred certain police functions performed by the Essex County Police Department to the Essex County Sheriff's Department.

It is alleged that the continued lay-offs, demotions and transfers were a reprisal by the County because the PBA demonstrated against the initial announcement of lay-offs.

The Order to Show Cause was executed and made returnable for May 29, 1991. Both parties submitted briefs, affidavits and other evidence and argued orally.

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

1/ Footnote Continued From Previous Page

employment to encourage or discourage 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."

relief, the relative hardship to the parties in granting or denying the relief must be considered.^{2/}

Here, the charging party has failed to meet this heavy burden. The facts set forth in the affidavits submitted by the County contradict the facts asserted in the charging party's affidavits. I cannot say the PBA has established a substantial likelihood of success of prevailing on the facts in this matter.

The request for interim relief is denied.



Edmund G. Gerber
Commission Designee

DATED: June 4, 1991
Trenton, New Jersey

^{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).