

STATE OF NEW JERSEY
BEFORE A HEARING EXAMINER OF THE
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

UNION CITY BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-83-141

UNION CITY EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

A Commission designee grants interim relief to the extent that the Respondent is ordered to restore the status quo as it existed prior to a unilateral change in shift hours for custodians and engineers, shift hours being a mandatory subject of negotiations: See Clifton Board of Education, P.E.R.C. No. 80-140, 6 NJPER 103 (1980). The Respondent was not directed to continue its practice of scheduling overtime for said employees inasmuch as the scheduling of overtime in a non-negotiable managerial prerogative: See City of Long Branch, P.E.R.C. No. 83-15 (1982).

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INTERLOCUTORY DECISION AND ORDER

The above matter having been opened to the Public Employment Relations Commission on December 7, 1982 by James F. Schwerin of Greenberg, Kelley & Prior, Esqs., attorneys for the Charging Party, and the Commission's named designee, Alan R. Howe, having read the Unfair Practice Charge and supporting Affidavit and an Order To Show Cause having been issued on the same date, returnable December 15, 1982, and said order directing the Respondent to show cause why it should not be enjoined from implementing certain changes in the hours of work and compensation of custodians and engineers in its employ, which was effectuated on or about December 1, 1982 without negotiations with the Charging Party; and Herbert Klitzner, Esq., attorney for the Respondent, having appeared in opposition on December 15, 1982; and the undersigned having considered the moving papers and the oral argument of counsel for the parties on December 15, 1982; and it appearing that the Charging Party has satisfied the two standards for the grant of interim relief, namely, the substantial likelihood of success on the merits as to the facts and the law and the suffering of irreparable harm if relief is not granted, for the following reasons:

1. It is well settled that the decision of a public employer to change hours of work of its employees is mandatorily negotiable: Galloway Township Board of Education v. Galloway Township Association of Educational Secretaries,

1/ This finding is not based upon hearing evidence proffered at the hearing.

I.R. No. 83-11

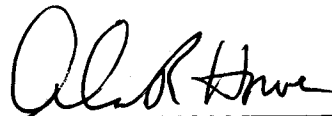
78 N.J. 1 (1978); Clifton Board of Education, P.E.R.C. No. 80-140, 6 NJPER 103 (1980); Town of Irvington, P.E.R.C. No. 82-63, 8 NJPER 94 (1982); Township of Franklin, P.E.R.C. No. 83-38 (1982); and Local 195 IFPTE v. State of New Jersey, 88 N.J. 393 (1982).

2. A decision to schedule or not to schedule overtime is a non-negotiable managerial prerogative but, however, when a public employer decides to schedule overtime its allocation among employees is a mandatorily negotiable subject of negotiations: City of Long Branch, P.E.R.C. No. 83-15 (1982) (and cases cited and discussed therein); Borough of Atlantic Highlands, P.E.R.C. No. 83-75 (1982); and Township of Delran, P.E.R.C. No. 83-77 (1982).

Accordingly, it is HEREBY ORDERED that the Charging Party's request to enjoin the Respondent's unilateral change in shift hours be and same is hereby granted, pending the disposition of the Unfair Practice Charge by the Commission; and it is

FURTHERED ORDERED that the Respondent restore the status quo of shifts of custodians and engineers as of the date of change on December 1, 1982 with the exception that the Respondent is not required by the within Orders to schedule overtime for any of its custodians and engineers, notwithstanding that said employees may have been scheduled to work overtime prior to December 1, 1982 inasmuch as the scheduling of overtime is a managerial prerogative, supra.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



Alan R. Howe
Hearing Examiner

Dated: December 17, 1982
Newark, New Jersey