

I.R. No. 2010-11

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NORTH HUDSON REGIONAL FIRE
AND RESCUE,

Respondent,

-and-

Docket No. CO-2010-161

NORTH HUDSON FIRE OFFICERS
ASSOCIATION,

Charging Party.

SYNOPSIS

A Commission Designee denies an application for interim relief to require the North Hudson Regional Fire and Rescue to pay retroactive salary increases as provided by the parties' collective agreement. The Designee agrees with the parties that this matter concerns the enforcement of the collective agreement and is more appropriate for resolution in a summary judgement proceeding already scheduled in Superior Court.

I.R. No. 2010-11

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NORTH HUDSON REGIONAL FIRE
AND RESCUE,

Respondent,

-and-

Docket No. CO-2010-161

NORTH HUDSON FIRE OFFICERS
ASSOCIATION,

Charging Party.

Appearances:

For the Respondent, Scarinci Hollenbeck, LLC, (Adam
Abramson, of counsel)

For the Charging Party, Fox and Fox, LLP (David I. Fox
and Daniel J. Zirrith, of counsel)

INTERLOCUTORY DECISION

On November 6, 2009, North Hudson Fire Officers Association
(Association), filed an unfair practice charge with the Public
Employment Relations Commission (Commission) alleging that North
Hudson Regional Fire and Rescue (Regional) violated the New
Jersey Employer-Employee Relations Act (Act), specifically
N.J.S.A. 34:13A-5.4a(1) and (5)^{1/}. The charge was accompanied by

^{1/} These provisions 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
(continued...)

an application for interim relief seeking to order the Regional to make retroactive salary payments it had agreed to make in reaching a collective agreement effective from July 1, 2004 through June 30, 2010.

An Order to Show Cause was signed on November 17, 2009 scheduling a conference call return date for December 8, 2009. Both parties submitted documentation and argued orally on the return date.

The following facts appear:

On April 1, 2008, the parties reached a memorandum of agreement providing for a new collective agreement effective from July 1, 2004 to June 30, 2010. Both parties ratified the agreement by mid-May 2008. The agreement provided for several lump sum retroactive salary payments to be made at various times during the life of the contract. The parties have appeared in Superior Court twice because the Regional failed to make retroactive payments based upon the payment schedule in the parties' collective agreement.

ANALYSIS

To obtain interim relief, the moving party must demonstrate both that it has a substantial likelihood of prevailing in a final Commission decision on its legal and factual allegations and that irreparable harm will occur if the requested relief is

1/ (...continued)
refusing to process grievances presented by the majority representative."

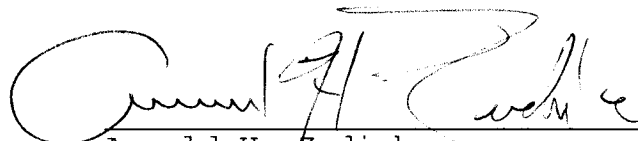
not granted. Further, the public interest must not be injured by an interim relief order and the relative hardship to the parties in granting or denying relief must be considered. Crowe v. De Gioia, 90 N.J. 126, 132-134 (1982); Whitmyer Bros., Inc. v. Doyle, 58 N.J. 25, 35 (1971); State of New Jersey (Stockton State College), P.E.R.C. No. 76-6, 1 NJPER 41 (1975); Little Egg Harbor Tp., P.E.R.C. No. 94, 1 NJPER 37 (1975).

During the conference call on the return date, the parties agreed that this application - seeking payment of the retroactive salaries on the dates provided in the contract - was really an enforcement proceeding that belonged in Superior Court. The Association apparently filed this matter to make certain it exhausted administrative review. The parties are scheduled to appear in Superior Court on January 8, 2010 on a motion for summary judgment regarding the same issues raised here.

This application seeks the enforcement of the parties' contract, particularly the payment of money which normally is not appropriate for interim relief.

Consequently, I agree with the parties, this matter is more appropriate for resolution by the Court in its upcoming procedure.

Accordingly, the application is denied.


Arnold H. Zudick
Commission Designee

DATED: December 23, 2009
Trenton, New Jersey