

H.E. NO. 2016-11

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

In the Matter of

CITY OF NEWARK,
Respondent,

-and-

Docket Nos. CO-2014-183
CO-2014-206

NEWARK DEPUTY CHIEFS ASSOCIATION
a/w FOP NEW JERSEY LABOR COUNCIL,

Charging Party.

SYNOPSIS

A Hearing Examiner grants Charging Party's motion for summary judgment and denies Respondent's cross motion. The Hearing Examiner determined that the City of Newark violated 5.4a(5) when it failed to comply with the grievance decisions of its Police Directors, its designated representatives at Step 3 of the parties' negotiated grievance procedure, thereby repudiating the parties' grievance procedure. She rejected the Respondent's arguments, namely that the Commission did not have jurisdiction over mere breaches of the parties' CNA, the grievances were not timely, the designees made the wrong decisions (the grievant's were not entitled to the relief granted) and the grievances were presumed denied under the grievance procedure. The Hearing Examiner found these arguments without merit, citing recent Commission decisions rejecting these defenses.

A Hearing Examiner's Report and Recommended Decision is not a final administrative determination of the Public Employment Relations Commission. The case is transferred to the Commission, which reviews the Report and Recommended Decision, any exceptions thereto filed by the parties, and the record, and issues a decision that may adopt, reject or modify the Hearing Examiner's findings of fact and/or conclusions of law. If no exceptions are filed, the recommended decision shall become a final decision unless the Chair or such other Commission designee notifies the parties within 45 days after receipt of the recommended decision that the Commission will consider the matter further.

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NEWARK DEPUTY CHIEFS ASSOCIATION
a/w FOP NEW JERSEY LABOR COUNCIL,

Charging Party.

Appearances:

For the Respondent
Carmagnola & Ritardi, LLC, attorneys
(Barbara J. Stanton, of counsel)

For the Charging Party
Markowitz and Richman, attorneys
(Matthew D. Areman, of counsel)

**HEARING EXAMINER'S DECISION ON
MOTION FOR SUMMARY JUDGMENT AND
CROSS-MOTION FOR SUMMARY JUDGMENT**

On February 12, 2014, and March 6, 2014, the Newark Deputy Chiefs Association (DCA or Union) filed two unfair practice charges, Docket Nos. CO-2014-183 and CO-2014-206, respectively, against the City of Newark (City). The DCA and City have a collective negotiations Agreement containing a four-step grievance procedure ending in binding arbitration. The charges both allege on several occasions in late 2013 and early 2014, the City refused to comply with the decisions of its step-three grievance designee, despite the DCA's repeated requests for the

relief granted by the designees. Specifically, the charge docketed as CO-2014-183 alleges the City refused to implement the step-three designee's decisions regarding five grievances decided in October 2013 and January 2014 (concerning all deputy chiefs, and particularly Deputy Chiefs Perillo and Rubel). The charge docketed CO-2014-206 alleges the City refused or failed to implement the step-three designee's February 2014 grievance decision regarding Deputy Chief Glover.

The City's conduct allegedly violates section 5.4a(5) of the New Jersey Employer-Employee Relations Act, N.J.S.A.34:13A-1, et seq. (Act).^{1/}

On August 19, 2014, a Complaint and Notice of Hearing and an Order Consolidating the Charges issued on allegations the City violated 5.4a(5) of the Act.^{2/} On September 3, 2014, the City filed an Answer, relying on its previously filed position statement and setting forth several affirmative defenses. The City denies it refused to negotiate in good faith and asserts the charges are untimely, fail to state claims on which relief may be

1/ This provision prohibits public employers, their representatives or agents from: "(5) Refusing to negotiate in good faith with a representative of employees in an appropriate unit concerning terms and conditions of employees in that unit, or refusing to process grievances presented by the majority representative."

2/ The Director of Unfair Practices dismissed the Union's alleged violations of section 5.4a(3) and (7) of the Act, noting these did not meet the Complaint issuance standard.

granted and should be dismissed on waiver or estoppel grounds. Finally, the City asserts the Commission does not have jurisdiction over the matters asserted in the charges.

On May 8, 2015, the DCA filed a motion for summary judgment, together with a brief, certification by FOP Representative Robert Gries and documents. On May 22, 2015, the City filed a cross-motion for summary judgment, together with a brief and documents. On August 17, 2015, the Commission referred the motions to me for a decision. N.J.A.C. 19:14-4.8.

Summary judgment will be granted:

If it appears from the pleadings, together with the briefs, affidavits and other documents filed, that there exists no genuine issue of material fact and that the movant or cross-movant is entitled to its requested relief as a matter of law, the motion or cross motion for summary judgment may be granted and the requested relief ordered.

Brill v. Guardian Life Insurance Co. of America, 142 N.J. 520, 540 (1995) sets forth the standard for determining whether a "genuine issue" of material fact precludes summary judgment. The fact-finder must:

". . . consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational fact-finder to resolve the alleged disputed issue in favor of the moving party."

See also, Judson v. Peoples Bank & Trust Co., 17 N.J. 67, 73-75 (1954). If that issue can be resolved in only one way, it is not

a genuine issue of material fact. Finally, a motion for summary judgment should be granted cautiously and the procedure may not be used as a substitute for a plenary hearing. Baer v. Sorbello, 177 N.J. Super. 182 (App. Div. 1981); Essex Cty. Ed. Serv. Comm., P.E.R.C. No. 83-65, 9 NJPER 19 (¶14009 1982).

Applying these standards and relying upon the parties' submissions, I make the following:

FINDINGS OF FACT

1. The City and DCA are parties to a collective negotiations agreement (Agreement) effective from January 1, 2009 through December 31, 2012. The parties continue to work under the terms of the Agreement while they negotiate a successor agreement.

Article III, Section 3 of the "Grievance Procedure," consists of a four-step process for resolving grievances, culminating in binding arbitration and provides, in relevant part:

Step 1. An aggrieved employee shall institute action under the provisions hereof within ten (10) working days of the occurrence of the grievance and an earnest effort shall be made to settle the difference(s) between the aggrieved employee and the Police Director for the purpose of resolving the matter informally.

Step 2. If a grievance is timely, and if no satisfactory agreement is reached within ten (10) calendar days

after Step 1, then the grievance shall be reduced to writing and submitted to the Police Director.

Step 3. Should no acceptable agreement be reached within five (5) calendar days after Step 2, then the matter shall be submitted to the Police Director who shall have ten (10) calendar days to submit his/her decision.

Step 4. Arbitration. Within two (2) weeks of the transmittal of the written answer by the Director, if the grievance is not settled to the satisfaction of both parties, either party to the Agreement may request that the grievance be submitted to arbitration as hereinafter set forth . . .

Section 5 of the Grievance and Arbitration Article provides:

General provisions:

(a). Nothing contained herein shall prevent any employee from presenting his/her own grievance and representing himself/herself provided notification of all meetings, steps and grievance answers are given to the Association and the Association is given the opportunity to be present at all steps of the grievance procedure.

(b). If the City fails to meet and/or answer any grievance within the prescribed time limits as hereinbefore provided, such grievance shall be presumed to be denied [sic] may be processed to the next step.

3. On or about January 6, 2014^{3/}, Police Director Gustavo Medina sustained three grievances alleging the City failed to include longevity pay with lump sum compensatory time payments paid to then-Deputy Chiefs Keith T. Rubel and Samuel DeMaio (DCA Exhibits C and D). Medina also sustained a grievance finding the City failed to include longevity as part of compensatory time payments for all deputy chiefs. He ordered the payments to be made. (DCA Exhibit E)

4. On October 31, 2013, Police Director Samuel DeMaio sustained a grievance (Grievance 13-01) alleging the City failed to pay Deputy Chief Anthony Perillo a 2010 cash waiver incentive equal to 10 percent of his annual health care premium, under Article IX, "Health and Life Insurance" of the Agreement. (DCA exhibit B). DeMaio wrote that he would direct the payment be made.

5. On January 24, 2014, Police Director DeMaio sustained a grievance alleging the City miscalculated and underpaid accrued compensatory time to Deputy Chief Anthony Perillo (Grievance 13-02, DCA Exhibit F).

3/ It is unclear from the facts when Medina and DeMaio served as Police Directors. However, it is undisputed that both Medina and DeMaio were Police Directors when they sustained the Step 3 grievances at issue here.

6. On January 23, 2014, Deputy Chief Tracy Glover filed a grievance claiming he was entitled to, but had not received, compensation equal to ten percent of the health care premium because of filing a waiver and opting out of the City's health care coverage for 2013. On February 3, 2014, Police Director DeMaio sustained the grievance finding that according to Article IX, Section 5, "Health and Life Insurance," Glover was entitled to the 2013 cash waiver incentive. DeMaio wrote he would direct the payment be made (DCA Exhibit G).

7. The City did not file for arbitration pursuant to Section 3, step-four of the grievance procedure over any of the above grievance decisions.

8. To date, the City has refused or failed to implement the above six Step Three (3) decisions and has not paid the amounts the Directors found were warranted.

9. On February 12, 2014, the DCA filed an unfair practice charge concerning the City's failure to comply with the Directors' decisions concerning the first five grievance decisions (CO-2014-183). On March 6, 2014, the DCA filed an unfair practice charge concerning the City's

failure to comply with the Directors' decisions concerning the Glover grievance decisions (CO-2014-206).^{4/}

ANALYSIS

I find that no genuine issues of material fact exist requiring a plenary hearing. The City relied on the certification of FOP representative Robert Gries, which the DCA submitted. Thus, all of the relevant facts are undisputed. I further find the DCA is entitled to judgment in its favor as a matter of law.

First, the City argues the Commission does not have jurisdiction over these matters, citing the Commission's policy against deciding unfair practice charges alleging mere breaches of collective negotiations agreements.^{5/} This argument reveals the City's misunderstanding that the Commission would substitute its judgment for that of the

^{4/} The City sought to add additional portions of the collective agreement to the facts - Art. IX (Health Insurance); Art. XIV (Accrued Compensatory Time); and Art. VII (Longevity). I do not consider these provisions material to the motions for summary judgment or to these unfair practice charges. These articles are submitted in an attempt to re-litigate the merits of the grievances.

^{5/} In State of New Jersey (Human Services), P.E.R.C. No. 84-148, 10 NJPER 419 (¶15191 1984), the Commission held that complaints should not issue on charges alleging nothing more than that a party has breached a contract, but should only issue where there is a sufficient nexus between the duty to negotiate in good faith and an alleged contractual violation. Here, the alleged repudiation of the parties' grievance procedure establishes the sufficient nexus.

person(s) authorized under the Agreement to decide whether to resolve, sustain or deny the grievances. The Commission has a longstanding policy against asserting this type of jurisdiction. See, City of Newark, I.R. No. 2015-5, 41 NJPER 435 (¶136 2015).

In essence, the City misconstrues the substance of the charges alleging the City failed to negotiate in good faith by refusing to implement the decisions of its own step-three designee. The Act expressly requires public employers to negotiate grievance procedures by which either majority representatives or individual employees "may appeal the interpretation, application or violation of policies, agreements and administrative decisions." N.J.S.A. 34:13A-5.3. The Act further requires that such negotiated grievance procedures be utilized for any dispute covered by the terms of the parties' collective negotiations agreement. Ibid. It is an unfair practice for a public employer to refuse to process grievances presented by the majority representative. N.J.S.A. 34:13A-5.4a(5).

Moreover, the Commission has held that a refusal by a public employer to abide by a decision of its designated representative constitutes a refusal to negotiate in good faith. An unjustifiable refusal to honor negotiated

grievance procedures and binding decisions of authorized grievance representatives violates the obligation to negotiate in good faith. Bor. of Keansburg, P.E.R.C. No. 2004-29, 29 NJPER 506 (¶160 2003); Passaic Cty. (Preakness Hospital), P.E.R.C. No. 85-87, 11 NJPER 136 (¶16060 1985). In Preakness Hospital, the Commission rejected the employer's argument that its failure to implement the Step 3 grievance decision of its Special Counsel was merely a breach of contract claim but not an unfair practice. In Keansburg, the Commission found an unfair practice where the Borough Manager disavowed the police chief's and his designee's step 2 decisions, finding they acted under the express authority of the contract's grievance procedure. If the parties are not bound by the results of the intermediate steps of a grievance procedure they intended to be binding, then the procedure will be ineffective in quickly and inexpensively resolving disputes.

By comparison, in Middletown Township, P.E.R.C. No. 2007-18, 32 NJPER 325 (¶135 2006), aff'd. 34 NJPER 228 (¶79 2008), the Commission dismissed an allegation that the Township violated the Act by not complying with the chief's grievance determination. There, the union did not follow the negotiated procedure - notice to the business administrator - a procedure intended to protect the

Township from the chief acting without the administrator's knowledge and ability to intervene. The union there was bound to the notice requirement. Here, there are no facts indicating that the union failed to follow the parties' grievance procedure.

Based on these principles and caselaw, I find the City's jurisdictional argument to be without merit.

Docket No. CO-2014-206 Deputy Chief Glover

The City asserts Glover did not file the appropriate forms and documents to entitle him to the health care premium waiver payments he sought in his grievance filed on January 23, 2014 (DCA exhibit G). The City also argues this grievance was filed after the filing period deadline. For these reasons, the City asserts the Police Director wrongly sustained Glover's grievance and argues we should not issue a Complaint in this matter. However, the Commission's role is not to substitute its judgment for the employer's designees in their role evaluating the substantive and procedural merits of grievances. See generally cases cited above.

Docket No. CO-2014-183 Grievances of Deputy Chiefs Perillo, Rubel and DeMaio

The City argues the grievances and/or unfair practice charges submitted on behalf of Deputy Chiefs Glover, Perillo, Rubel and DeMaio were filed beyond the Act's six-

month statute of limitations^{6/} and must be dismissed. The date the grievances were filed is not relevant to this Motion. As discussed below, the charges are timely.

On October 2013, Director DeMaio sustained Deputy Chief Perillo's grievance (#13-01) concerning the health care premium waiver payment. On January 6, 2014, Police Director Gustavo Medina sustained both Rubel's and DeMaio's grievances concerning including longevity in lump sum payouts. On January 6, 2014, Medina also sustained the DCA's grievance on behalf of all deputy chiefs concerning including longevity in lump sum payouts. On January 24, 2014, Director DeMaio sustained Perillo's grievance (#13-02) concerning longevity and compensatory time payout rate. The unfair practice charge was filed on February 12, 2014, within six months of these Directors' decisions.

As to Glover's grievance and unfair practice charge, on February 3, 2014 Director DeMaio sustained Glover's grievance and the charge was filed on March 6, 2014. The charge was filed within six (6) months of the Director's decision on the grievances. Thus, the charge that the

6/ N.J.S.A. 34:13A-5.4(c) provides, in relevant part: ". . .no complaint shall issue based upon any unfair practice occurring more than 6 months prior to the filing of the charge unless the person aggrieved thereby was prevented from filing such charge."

City repudiated the procedure by failing to implement the decision is also within the Act's statute of limitations. Therefore, there appears to be no basis for finding these allegations are untimely.

As to the timeliness of the grievances, it is not within the Commission's authority to reject untimely grievances. The parties have agreed to binding grievance arbitration to resolve disputes, including those about timeliness, over the interpretation of their contractual provisions. There is a balance to be struck between ensuring that a grievance procedure's time lines are observed so that the grievances do not indefinitely remain open and securing equitable solutions to problems by keeping grievance procedures as informal as possible.

Here, it is not clear whether the Directors informally extended the grievance time frames to facilitate further consideration and discussion of the issues, or to gather information to facilitate potential settlement efforts. It is possible that other law enforcement units in the City were pursuing some of the same payment issues and the Directors may have waited to learn of the other cases' outcomes to maintain equity or parity in payment policies. In any case, it is not the

Commission's role to overturn decisions made on untimely grievances.

The Grievances Lacked Merit Argument

The City argues that in Glover's grievance, in grievance 13-02 (Perillo), and in the three unnumbered grievances sustained on January 6, 2014, none of the deputy chiefs are entitled to the relief granted under the terms of the Agreement including the cash waiver incentive (Glover), number of compensatory days awarded or inclusion of longevity in compensatory time or overtime pay outs. The City appears to be attempting to overturn the decisions of its designees. However, as previously stated, the Commission's unfair practice jurisdiction does not extend to considering the merits of grievances decided by authorized designees.

This case is identical in substance to a long line of recent unfair practice cases between the City and other law enforcement units regarding whether the City of Newark's Police Director has authority to issue grievance determinations at certain steps of the parties' negotiated grievance procedures. In City of Newark, P.E.R.C. No. 2008-34, 33 NJPER 316 (¶120 2007), recon. den. P.E.R.C. No. 2008-53, 34 NJPER 71(¶29 2008), involving the City and SOA, the Police Director settled a grievance relating to

vacation days, but the police chief refused to implement it. The Commission held:

The City argues that the vacation grievance settlement is void because the Director lacked the legal authority to change terms and conditions of employment set forth in the contract. We are not persuaded by this argument. In the labor relations context, an employer will be bound by its negotiated grievance procedure and the decision of the agents it has authorized to represent it at each step. . . . The City cannot unilaterally rescind a grievance settlement reached by its Police Director under the negotiated grievance procedure. That rescission repudiates the grievance procedure and violates section 5.4a(5). (emphasis added) [33 NJPER at 318]

Subsequent decisions of Commission Hearing Examiners^{7/}, followed this holding determining that the Police Director has authority to decide grievances at designated grievance Steps despite the City's policies purportedly limiting the Director's discretion as these are not part of the grievance procedure and not binding on the SOA. For instance, in City of Newark, H.E. No. 2013-14, 39 NJPER 410 (¶130 2013), the City's Police Director settled a grievance concerning accrued compensatory time due on retirement. Citing a policy memorandum, the City

^{7/} These became final agency decisions when the City did not file exceptions. N.J.A.C. 19:14-8.1 (b).

refused to implement the settlement because it claimed the Director did not have approval from the Business Administrator to settle the grievance. The Hearing Examiner found that the City violated the Act when it refused to pay terminal leave to a grievant pursuant to the Police Director's settlement at Step 5 of the parties' grievance procedure.^{8/}

Next, in City of Newark, H.E. No. 2014-1, 40 NJPER 124 (¶48 2013), the City refused to pay a police officer for earned on-call compensation pursuant to a grievance sustained by its Police Director at Step 5 of the grievance procedure. Rejecting the City's argument regarding the Police Director's authority to resolve grievances, a Commission Hearing Examiner held that the City violated the Act, finding:

At best, these documents may support that Police Director DeMaio violated an internal policy dating to 1997. The SOA was not a party to that policy nor is there any evidence that the SOA was notified of its existence. In any event, the policy does not abrogate the clear contract language of the parties' negotiated grievance procedure which designates the Police Director to review and resolve

^{8/} Here, unlike H.E. 2013-14, the City does not advance the argument that the Police Directors settled the grievances in violation of a City policy against settling grievances. In any event, this argument was considered in H.E. 2013-14 and rejected.

grievances at Step 5. Additionally, the grievance procedure protects the City's interest as expressed in the 1997 policy directive by permitting the city to appeal any determination it disagrees with to binding arbitration at Step 6. Here, the City did not appeal, but simply refused to pay Gasavage the 208 hours ordered by DeMaio in resolution of the SOA grievance. [Newark, 40 NJPER at 126-127]

Finally, in City of Newark, H.E. No. 2015-8, 41 NJPER 454 (¶141 2015), the City was found to have violated the Act by failing to implement the Police Director's decision to sustain SOA grievances pertaining to failure to make the contractually required lump sum payment upon retirement to multiple grievants. Even though the SOA had already proceeded to Step 6 of the grievance procedure by filing for arbitration of the grievances, and arbitration hearings had begun, the Hearing Examiner found that the Police Director still retained authority to settle the matters prior to the issuance of arbitration awards.

The precedents expressed in Newark, H.E. No. 2015-8, Newark, H.E. No. 2014-1, Newark, H.E. No. 2013-14, and Newark, P.E.R.C. No. 2008-34 apply here. See also, City of Newark, I.R. No. 2015-5, 41 NJPER 435 (¶136 2015) (Commission Designee ordered City to abide by Police Director's grievance determination and pay SOA member longevity, overtime and compensatory time pay.)

Presumed Denied Argument

The City also argues that all of the six grievances at issue were improperly sustained by Police Directors Medina and DeMaio because they had already been presumed or deemed "denied" under Article III, Section 5 (b). The City argues that Perillo's second grievance, submitted on August 28, 2013, was deemed denied on September 8, 2013 and Rubel's grievance, submitted on November 18, 2013, was deemed denied on September 8, 2013. The City further argues that Glover's and Perillo's first grievances were filed beyond the Agreement's ten-day deadline for filing a grievance and should have been denied by the Directors as untimely. It asserts that an inference can be drawn that the other grievances were also deemed withdrawn or beyond the deadline for filing. Therefore, the City argues, the Directors actions were improper because they had all been deemed denied or were untimely. No actual denials are in this record.

This argument was raised and rejected in Newark, I.R. No. 2015-3, 41 NJPER 364 (¶115 2015); Newark, H.E. No. 2014-1, 40 NJPER 124 (¶48 2013); Newark, H.E. 2013-14, 39 NJPER 410 (¶130 2013); in Newark, P.E.R.C. No 2008-34, 33 NJPER 316 (¶120 2007), recon. den. P.E.R.C. No. 2008-53, 34 NJPER 71 (¶29 2008). These cases, filed by the SOA,

concerned circumstances where, like here, the Director sustained grievances more than 10 days after being presented to him. The City refused to implement the payments to SOA members that the Director awarded. The SOA's grievance procedure language is identical to the DCA's language in the presumption that grievances are presumed denied if the City has not answered within the prescribed time limits. The Commission and Hearing Examiner Designees all concluded the Police Director's discretion and authority as the City's decision maker do not extinguish until either party exercises its right to proceed to binding arbitration. Those cases are legally indistinguishable from this one and factually similar.

In addition, the City did not notify the DCA that the reason it refused to pay the amounts is because it believed the grievances had been deemed denied under Section 5 of the procedure. If it had notified the Union, the Union could have invoked arbitration.

Accordingly, in light of the cited precedent, I do not credit the City's argument that the Directors' decisions may not be honored because they were already deemed denied.^{9/}

^{9/} The Designee in I.R. No. 2015-3 noted that if the City is unsatisfied with the decision of its own representative, it
(continued...)

Finally, the City argues the Motion is not ripe for decision because discovery has not commenced and there are material factual issues that can only be resolved through discovery process. This would be true if the City had raised "evidence that creates a genuine issue of material facts challenged" (City's Brief on Motions, page 17). Here the City contends that discovery is necessary "to establish the substantive merits of the underlying grievances (City's Brief on Motions , page 19). This argument also lacks merit. As I have discussed above, neither the timeliness nor the merits of the underlying grievances are within the Commission's jurisdiction in these unfair practice charges.

RECOMMENDED ORDER

The DCA's motions are granted and the City's motions are denied.

The City is ordered to.

A. Cease and Desist from:

1. Refusing to negotiate in good faith with the DCA concerning terms and conditions of employment of employees in that unit and refusing to process grievances particularly by failing to comply with and repudiating the

9/ (...continued)
can pursue its objection in arbitration. The grievance procedure allows both the City and DCA to do so.

step three grievance decisions by the Police Director sustaining Grievance No. 13-01 (Deputy Chief Perillo's health care premium waiver payment), Grievance No. 13-02, (Deputy Chiefs Perillo, Rubel and DeMaio's lump sum/longevity and compensatory time pay outs and all deputy chiefs' longevity payout payments) and Deputy Chief Glover's Grievance concerning health care premium waiver payment.

B. Take the following action:

1. Pay Deputy Chief Perillo a 2010 cash waiver incentive equal to 10 percent of his annual health care premium, and compensate him for the miscalculated underpayment for his accrued compensatory time payout.

2. Make whole Deputy Chief Rubel and former Deputy Chief DeMaio for failing to include longevity pay with their lump sum compensatory time payments.

3. Pay Deputy Chief Glover the 2013 cash waiver incentive equal to 10 percent of his annual health care premium.

4. Pay any deputy chief who was underpaid when the City failed to include longevity pay with their lump sum compensatory time payments.

5. Post in all places where notices to employees are normally posted, copies of the attached notice marked "Appendix A." Copies of such, on forms to be provided by the Commission, will be posted immediately upon receipt thereof and after being signed by the Respondent's authorized representative will be maintained by it for at least sixty (60) consecutive days. Reasonable steps will be taken by the Respondent to ensure that such notices are not altered, defaced or covered by other materials; and,

6. Within twenty (20) days of receipt of this order, notify the Chair of the Commission what steps the Respondent has taken to comply with this order.

/s/Wendy L. Young
Wendy L. Young
Hearing Examiner

DATED: December 1, 2015
Trenton, New Jersey

Pursuant to N.J.A.C. 19:14-7.1, this case is deemed transferred to the Commission. Exceptions to this report and recommended decision may be filed with the Commission in accordance with N.J.A.C. 19:14-7.3. If no exceptions are filed, this recommended decision will become a final decision unless the Chairman or such other Commission designee notifies the parties within 45 days after receipt of the recommended decision that the Commission will consider the matter further. N.J.A.C. 19:14-8.1(b).

Any exceptions are due by December 11, 2015.



NOTICE TO EMPLOYEES

PURSUANT TO AN ORDER OF THE PUBLIC EMPLOYMENT RELATIONS COMMISSION AND IN ORDER TO EFFECTUATE THE POLICIES OF THE NEW JERSEY EMPLOYER-EMPLOYEE RELATIONS ACT, AS AMENDED,

We hereby notify our employees that:

WE WILL cease and desist from refusing to negotiate in good faith with the DCA concerning terms and conditions of employment of employees in that unit and refusing to process grievances particularly by failing to comply with and repudiating the step three grievance decisions by the Police Director sustaining Grievance No. 13-01 (Deputy Chief Perillo's health care premium waiver payment), Grievance No. 13-02, (Deputy Chiefs Perillo, Rubel and DeMaio's lump sum/longevity and compensatory time pay outs and all deputy chiefs' longevity payout payments) and Deputy Chief Glover's Grievance concerning health care premium waiver payment.

WE WILL pay Deputy Chief Perillo a 2010 cash waiver incentive equal to 10 percent of his annual health care premium, and compensate him for the miscalculated underpayment for his accrued compensatory time payout.

WE WILL make whole Deputy Chief Rubel and former Deputy Chief DeMaio for failing to include longevity pay with their lump sum compensatory time payments.

WE WILL pay Deputy Chief Glover the 2013 cash waiver incentive equal to 10 percent of his annual health care premium.

WE WILL pay any deputy chief who was underpaid when the City failed to include longevity pay with their lump sum compensatory time payments.

Docket No. CO-2014-183
CO-2014-206

City of Newark

(Public Employer)

Date: _____

By: _____

This Notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced or covered by any other material.

If employees have any question concerning this Notice or compliance with its provisions, they may communicate directly with the Public Employment Relations Commission, 495 West State Street, PO Box 429, Trenton, NJ 08625-0429 (609) 984-7372

