

E.D. No. 76-9

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HUNTERDON COUNTY BOARD OF CHOSEN  
FREEHOLDERS,

Petitioner,

- and -

Docket No. SN-76-22

HUNTERDON COUNTY COUNCIL #15, NJCSA,

Respondent.

SYNOPSIS

In an interlocutory decision the Executive Director, acting on behalf of the Commission, refuses to stay the arbitration of a grievance during the pendency of a scope of negotiations proceeding in which the matter in dispute involves safety rules and regulations applicable to unit members. The Executive Director states that it can be reasonably anticipated that the adoption of a "hard hat" safety policy for county employees will be found, by the Commission, to be within the scope of collective negotiations, and thus arbitrable, if otherwise arbitrable under the parties' agreement.

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REFUSAL TO STAY ARBITRATION

A Petition for Scope of Negotiations Determination was filed with the Public Employment Relations Commission by the County of Hunterdon (the "County") on November 13, 1975, requesting a determination as to whether a matter in dispute between the County and the Hunterdon County Council #15, NJCSA ("Council #15") is within the scope of collective negotiations. The County indicates that Council #15 has sought arbitration of the same matter pursuant to the collectively-negotiated grievance procedure currently in effect between the parties (AR-76-41).<sup>1/</sup> The County requested that the Commission stay the arbitration during the pendency of the scope proceeding. See Board of Education of the City of Englewood v. Englewood Teachers Association, 135 N.J. Super 120, 1 NJPER 34, 90 LRRM 2074 (App. Div. 1975).

The undersigned has been delegated the authority to act on such requests for stays of arbitration on behalf of the Commission. The ultimate administrative decision in scope of negotiations proceedings still rests with the Commission itself. See N.J.A.C. 19:13-3.7. The function of the undersigned is limited

<sup>1/</sup> The Council has also filed an Unfair Practice Charge against the County pertaining to this same dispute. (CO-76-123). The within determination in no way pertains to that proceeding, which is currently in the processing stage pursuant to N.J.A.C. 19:14-1.6.

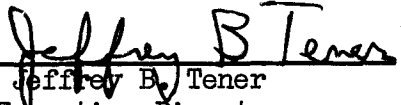
to a determination as to whether there is any reasonable basis for the contention of the requesting party that the matter(s) in dispute may be found not to be within the scope of collective negotiations and therefore not arbitrable.

Board of Education of the Borough of Tenafly and Tenafly Education Association, PERC No. 92(1975), 1 NJPER 50, 51 (1975), City of Englewood Board of Education and Englewood Teachers Association, PERC No. 93(1975), 1 NJPER 51, 52 (1975). Such a "reasonable basis" will be found to exist "when a bona fide scope of negotiations question has been presented to the Commission for determination." Ibid.

The matter in dispute in the within petition concerns the adoption by the Hunterdon County Board of Chosen Freeholders of a "hard hat" safety policy for county employees, which policy was supplemented by sanctions to be imposed upon employees who did not abide by the policy. It has generally been held, in both the private and public sectors, that safety rules and practices are mandatory subjects of negotiations and therefore it can be reasonably anticipated that the adoption of a "hard hat" safety policy will be found to be within the scope of collective negotiations and thus arbitrable. For the above stated reason, the undersigned hereby refuses to grant the requested stay of arbitration.

It should be noted, however, that this refusal to stay the arbitration, pending the scope of negotiations decision by the Commission, does not in anyway pass upon the allegations of the County that the dispute is not arbitrable because the subject matter of safety has been removed from the area of mandatory negotiations by the establishment of the Employee Safety Committee in that agreement. As was pointed out in Hillside Board of Education and Hillside Education Association, PERC No. 76-11, 1 NJPER 55, 57 (1975), the Commission leaves to the arbitrator and/or the Courts all issues relating to arbitrability under the particular agreement between the parties. This would include the appropriateness of requests for restraints

of arbitrations. The within interlocutory determination and the Commission's ultimate decision assumes that the dispute is otherwise arbitrable under the parties' agreement.

  
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Jeffrey B. Tener  
Executive Director

DATED: November 26, 1975  
Trenton, New Jersey