

I.R. NO. 91-6

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY, OFFICE
OF EMPLOYEE RELATIONS, (TRENTON STATE COLLEGE),

Respondent,

-and-

Docket No. CO-91-28

COUNCIL OF NEW JERSEY STATE COLLEGE
LOCALS, NJSFT-AFT/AFL-CIO,

Charging Party.

SYNOPSIS

In an interim relief proceeding before the Public Employment Relations Commission, the Council of New Jersey State College Locals charged that Trenton State College entered into lease agreements for housing for certain employees represented by the union without negotiating such leases as a benefit or form of compensation. At the interim relief hearing, the College represented that local union representatives had consented to the leasing of this housing. The union representatives disputed this representation but neither side provided proof in support of their respective positions and a Commission Designee found that the issue of consent by local union representatives raises a substantial doubt to the union's likelihood of success in a final Commission decision.

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Appearances:

For the Respondent
Robert J. Del Tufo, Attorney General
(Melvin E. Mounts, Deputy Attorney General)

For the Charging Party
Dwyer & Canellis, attorneys
(Paul J. Burns, of counsel)

INTERLOCUTORY DECISION

On August 2, 1990, the Council of New Jersey State College Locals, NJSFT-AFT/AFL-CIO ("Union") filed an unfair practice charge against the State of New Jersey, Office of Employee Relations (Trenton State College) ("College"). It was alleged that the College violated N.J.S.A. 34:13A-5.4(a)(1) and (5).^{1/} The charge

^{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. (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."

alleged that the College and the Union have been involved in negotiations regarding the lease and sale of employer sponsored housing for employees represented by the Union. However, without reaching an agreement, the College unilaterally entered into lease agreements for this housing for certain unit members. The union argues this housing constitutes a benefit or form of compensation for these employees and said benefit was never negotiated.

The charge was accompanied by a request for an Order to Show Cause. The Union argued that to permit the leases to go forward without negotiations, would result in a harm that would be irreparable. The Order to Show Cause was executed and ultimately a hearing on the Order was heard on August 23, 1990. At that time, the parties appeared before me, submitted briefs and 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

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

The Union's Application for Interim Relief is denied.

There are a number of essential facts in dispute in this matter. The College argued that the houses and apartments that were leased, were leased at full market value and therefore, the lease of these houses to unit members was not a form of compensation and therefore, not a mandatory subject of negotiations. It would seem, however, that the houses and apartments are one block from the main campus and housing, even at market value, so close to work is a benefit to those employees who were awarded leases.


However, the College also claims that a number of the houses and apartments that were leased, were leased to employees whose services are required on an around-the-clock basis at the College. In fact, these employees are required to live in this housing. The College alleged that local union officials were aware of, and consented, to this rental process. The College further alleged that local union officials were also aware of and consented to the rental of this same housing last academic year. The union representatives at the conference disputed this but neither side provided proof in support of their respective positions. The

^{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).

College also maintained that these lease agreements were unrelated to the on-going negotiations concerning the implementation of a lease/purchase plan that was a subject of earlier negotiations.

The issue of notice to, and consent by, the local union representatives raises a substantial doubt as to the Union's likelihood of success on the facts here in a final Commission decision.

The Application for Interim Relief is denied.



Edmund G. Gerber
Commission Designee

DATED: August 24, 1990
Trenton, New Jersey