

I.R. NO. 87-32

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CAMDEN COUNTY PARKS COMMISSION,

Respondent,

-and-

Docket No. CO-87-355

CAMDEN COUNCIL NO. 10, N.J.C.S.A.,

Charging Party.

SYNOPSIS

A Commission Designee temporarily restrains the Camden County Parks Commission from continuing to pay salary increases which were unilaterally granted without first negotiating those increases with the majority representative, Council No. 10, N.J.C.S.A. pending a final decision from the full Commission.

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Appearances:

For the Respondent
John A. DeFalco, Esq.

For the Charging Party,
Tomar, Seliger, Simonoff, Adourian & O'Brien, Esqs.
(Mary L. Crangle, of counsel)

INTERLOCUTORY DECISION

On June 3, 1987, Camden Council No. 10, New Jersey Civil Service Association filed an application for an Order to Show Cause for interim relief with the Public Employment Relations Commission ("Commission"). An unfair practice charge was submitted with the application alleging that the Camden County Parks Commission violated subsections 5.4(a)(1), (2), (3) and (5) of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act") when on May 21, 1987, the Camden County Parks Commission unilaterally increased the salary of several of its white collar employees without first negotiating such increases with Council 10. These employees were members of the bargaining unit represented by

Council 10 and are covered in a contract which was entered into in March 1987. The Order to Show Cause was executed and made returnable for June 11, 1987. On that date, I conducted an Order to Show Cause Hearing having been delegated such authority to act upon requests for interim relief on behalf of the full Commission. Both parties submitted affidavits, briefs 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.^{1/}

There is no dispute that the parties entered into an agreement in March 1987 and that certain employees whose titles are covered by the agreement received raises subsequent to that date. The only question here is whether there were good faith negotiations over these raises prior to their implementation. The affidavit of David Polniak for Council 10 maintains that no negotiations took

^{1/} 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).

place. On the other hand, the affidavit submitted by the Park Commission from Addison Bradley states that negotiations did take place, however, a careful review of that affidavit reveals that discussions that took place did not rise to the level of good faith negotiations. Rather, there was simply one meeting where these salary raises were discussed and the County took the position that it had a right to grant these raises.

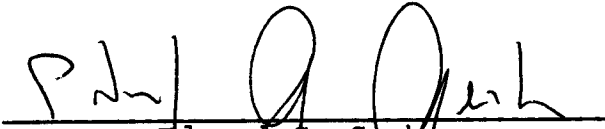
The Commission held in City of New Brunswick, P.E.R.C. No. 87-68, 13 NJPER 11 (¶18008 1986):

Negotiations over compensation with individual employees rather than their majority representative strikes at the heart of our Act: the exclusivity doctrine.

Lullo v. Int'l Ass'n of Fire Fighters, 55 N.J. 409, 426 (1970); North Brunswick Tp. Bd. of Ed., P.E.R.C. No. 86-29, 11 NJPER 583 (¶16203 1985). Had the City reached a true negotiations impasse with Council 10 then it would have had the right to unilaterally grant the salary increases. However, good faith negotiations did not take place, nor did the parties reach an impasse over this matter. The conduct of the employer cuts to the very heart of the Act, and in balancing the relative harms here, no harm would come to the County by suspending the disputed salary increases. On the other hand, the authority of the Association would be entirely vitiated by allowing these raises to stand at least pending negotiations.

Accordingly, it is hereby ordered that the raises to Fred Hunter, Cass Tyler, Lee Sasse, Jim Pierce, Chris Yezzi, George

Williamson, Judy Franchi, John McNally and Roland Trainer be suspended pending negotiations between the Association and Camden Council 10.^{2/}


Edmund G. Gerber
Commission Designee

DATED: June 30, 1987
Trenton, New Jersey

^{2/} The Charging Party has requested that the raise already paid to these employees be returned to the County. Such action would be overly disruptive as an interim remedy and the request is denied.