

P.E.R.C. NO. 2001-66

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF TRENTON,

Respondent,

-and-

Docket No. CO-2001-210

TRENTON PBA LOCAL NO. 11,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies Trenton P.B.A. Local No. 11's motion for reconsideration of I.R. No. 2001-8. In that decision, a Commission designee denied the PBA's request for interim relief based on an unfair practice charge it had filed against the City of Trenton. The PBA sought to enjoin the City from implementing a change in uniforms. The Commission finds no extraordinary circumstances warranting reconsideration of the designee's decision.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

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Appearances:

For the Respondent, Courter, Kobert, Laufer & Cohen,
attorneys (Stephen E. Trimboli, of counsel)

For the Charging Party, Loccke & Correia, attorneys
(Michael A. Bukosky, of counsel)

DECISION

On March 28, 2001, Trenton PBA Local No. 11 moved for reconsideration of I.R. No. 2001-8, 27 NJPER 206 (¶32070 2001). In that decision, a Commission designee denied the PBA's request for interim relief based on an unfair practice charge it had filed against the City of Trenton. The charge alleges that the City violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically 5.4a(1), (3), (5) and (7),^{1/} 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. (3) Discriminating in regard to hire or tenure of employment

requiring police officers to purchase new-style uniforms using money paid to officers pursuant to a contractual uniform allowance. The charge was accompanied by a request that the City be enjoined from implementing the change in uniforms pending negotiations over impact matters flowing from the City's decision.

The designee found that the parties dispute whether the clothing allowance provision covers the cost of purchasing new uniforms. He therefore concluded that there was a dispute of material fact that undermined the PBA's ability to establish a substantial likelihood of success on the merits, a requirement for granting interim relief. He also found that the City had a managerial prerogative to design the new uniform. Finally, the designee found that the PBA had not made a demand for negotiations over specific impact issues, but that the parties could engage in impact negotiations concerning mandatorily negotiable impact issues upon proper and timely demand.

1/ Footnote Continued From Previous Page

or any term or condition of employment to encourage or discourage 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. (7) Violating any of the rules and regulations established by the commission."

The PBA argues that the designee did not address the main thrust of its impact demand -- the health, safety and comfort of the employees having to wear the new uniforms. It asserts that the designee set a new requirement that a union list every negotiable item before the parties meet at their first negotiations session.

The City contends that the alleged health and safety impact issues were raised for the first time in an unauthorized submission in support of the interim relief application; the request for interim relief is moot because the new uniform requirement has been implemented; no extraordinary circumstances warrant reconsideration; and the charging party did not make a demand for impact negotiations that permitted the City a reasonable opportunity to respond.


Reconsideration will be granted only for extraordinary circumstances. N.J.A.C. 19:14-8.4. The PBA argues that the designee did not address the health, safety and comfort aspects of the new uniform. It appears, however, that those issues were not raised until the PBA replied to the City's response to the application for interim relief. The designee did not consider that submission in the interim relief proceeding to be a union demand to negotiate that triggered an employer obligation to respond. Nevertheless, the designee stated that there did not appear to be anything that would prevent the parties from engaging in impact negotiations concerning mandatorily negotiable impact issues upon proper and timely demand. The designee also stated that health, safety and comfort are mandatorily negotiable issues.

Upon demand, we would expect the City to engage in negotiations over mandatorily negotiable impact issues. Should the City refuse, the PBA may amend its charge or file a new charge where appropriate. While it might have been beneficial to address the health, safety and comfort aspects of the new uniforms before implementation of the new uniform requirement, it appears on our limited record that the PBA was aware that new uniforms were being considered as early as April 2000 and did not raise those concerns until the interim relief proceeding in March 2001. Under all these circumstances, we find no extraordinary circumstances warranting reconsideration of our designee's decision.

ORDER

The motion for reconsideration is denied.

BY ORDER OF THE COMMISSION


Millicent A. Wasell
Chair

Chair Wasell, Commissioners Muscato and Ricci voted in favor of this decision. Commissioner Buchanan opposed. Commissioner Madonna abstained from consideration. Commissioners McGlynn and Sandman were not present.

DATED: May 31, 2001
Trenton, New Jersey
ISSUED: June 1, 2001