

P.E.R.C. NO. 83-124

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF LINCOLN PARK,

Petitioner,

-and-

Docket No. SN-83-34

SERVICE EMPLOYEES INTERNATIONAL
UNION, AFL-CIO, LOCAL 389,

Respondent.

SYNOPSIS

The Public Employment Relations Commission dismisses a scope of negotiations proceeding which the Borough of Lincoln Park filed. The Borough contended that the Service Employees International Union, AFL-CIO, Local 389, wished to negotiate the hours of a civilian police dispatcher. Local 389, however, informed the Commission that it does not seek to change the hours the civilian police dispatcher works. The Commission holds that it need not decide the merits of the Borough's petition in the absence of a dispute over the dispatcher's hours.

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Appearances:

For the Petitioner, Scangarella, Feeney & Katz, Esqs.
(Frank Scangarella, of Counsel, Cynthia S. Butler,
on the Brief)

For the Respondent, Max Wolf, Secretary/Treasurer

DECISION AND ORDER

On November 1, 1982, the Borough of Lincoln Park ("Borough") filed a Petition for Scope of Negotiations Determination with the Public Employment Relations Commission. The Borough seeks a declaration that the following contract proposal of the Service Employees International Union, AFL-CIO, Local 389 ("SEIU") is not mandatorily negotiable to the extent it would apply to the position of civilian police dispatcher:

Article 18

Hours of Employment

B. Full-Time Clerical

The regular work week for full-time employees shall be from Monday to Friday, both inclusive, and shall consist of five (5) days of seven (7) hours each exclusive of one (1) hour for lunch. The lunch break shall be scheduled by the Department Head.

Both parties have submitted briefs.

SEIU represents a unit of all clerical and public works employees, with the exception of CETA employees, of the Borough. The clerical employees in this unit have generally worked a 35 hour week; they work from 8:30 a.m. to 4:30 p.m., Monday through Friday, with one hour off for lunch.

Prior to March, 1981, the Borough used CETA funds to employ a civilian police dispatcher. The Chief of Police structured the dispatcher's hours to coincide with the periods of peak activity at police headquarters: 11:00 p.m. to 7:00 a.m., Thursday through Monday. The dispatcher apparently works a 40 hour week.

In March, 1981, CETA funds for the dispatcher position lapsed. The Borough hired the dispatcher under its own budget. Since negotiations over the 1981 contract were ongoing at that time and it believed that the dispatcher had become a unit employee, the Borough sought to amend the proposed clause on hours of employment to state (in addition to Article 18, Paragraph B, quoted above):

There will be a new Paragraph C added entitled "Civilian Police Dispatcher" - The regular work week for the civilian police dispatcher shall be as established by the Chief of Police provided it shall consist of five (5) consecutive days and the hours shall conform to a normal police department shift, exclusive of one (1) hour for lunch which will be scheduled by the Police Chief.

SEIU rejected this proposed amendment and, on August 24, 1981, filed an unfair practice charge alleging that the Board had not negotiated in good faith because it would not

sign a contract without the proposed amendment. The Borough responded that it had a managerial prerogative to require the civilian police dispatcher to work when his services were most needed.^{1/} On October 20, 1981, a Commission staff agent conducted a conference at which the parties settled the unfair practice charge by agreeing that the civilian police dispatcher position would be included in the unit effective with the 1982 contract.

The parties are now negotiating a successor contract for 1983. The Borough has filed the instant petition.

The Borough argues that it must be able to synchronize the hours the civilian police dispatcher works with the hours police employees work and, in particular, that it must be able to use the dispatcher from 11:00 p.m. to 7:00 a.m., Thursday through Monday, when the police department is busiest.

SEIU responds that it does not dispute the creation of the civilian police dispatcher position nor the hours set for that position. Instead, it asserts that the dispute concerns a question of parity between the hours of the civilian dispatcher and the hours of a records clerk. SEIU states that it seeks to negotiate an increase in the hours of work of the records clerk; if it cannot achieve this objective during negotiations, it may request the Civil Service Commission to consider the record clerk's claim to parity since it contends that this matter is

^{1/} The Commission has taken administrative notice of the charge and the Borough's Answer.

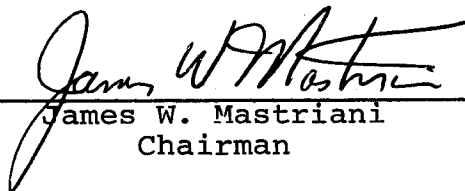
within the province of the Civil Service Commission.

Given SEIU's statement of position, we believe that we need not decide the merits of the Borough's scope of negotiations petition. SEIU has informed us that it does not dispute the hours the Borough requires its civilian police dispatcher to work. Therefore, the Board is assured that it will be able to require the civilian police dispatcher to work from 11:00 p.m. to 7:00 a.m., Thursday through Monday, when it asserts that the employee's services are most needed. Any residual dispute concerning the hours of employment of the records clerk has not been sufficiently framed or litigated before us to determine whether there is a dispute requiring a scope of negotiations determination.

ORDER

The scope of negotiations petition which the Borough of Lincoln Park has filed is dismissed.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

Chairman Mastraini, Commissioners Graves, Hartnett, Hipp, Newbaker and Suskin voted in favor of this decision. None opposed. Commissioner Butch was not present.

DATED: Trenton, New Jersey
March 16, 1983
ISSUED: March 17, 1983