

P.E.R.C. NO. 83-133

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CAMDEN COUNTY BOARD OF  
CHOSEN FREEHOLDERS,

Respondent,

-and-

Docket No. CO-77-269-125

COUNCIL 71 & LOCAL 2307,  
AFSCME, AFL-CIO,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission, applying In re Local 195, IFPTE, AFL-CIO v. State, 88 N.J. 393 (1982), dismisses a Complaint alleging that the Camden County Board of Chosen Freeholders (Camden County Hospitals) refused to negotiate over a subcontracting decision.

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Appearances:

For the Respondent, Steven D. Weinstein, County  
Counsel (Vincent J. Paglione, First Assistant  
County Counsel)

For the Charging Party, Joseph Asbell & Associates, P.A.  
(Yale Asbell, of Counsel)

DECISION AND ORDER

On October 2, 1977, the Public Employment Relations Commission held that the Camden County Board of Chosen Freeholders ("Board") violated subsections 5.4(a)(1) and (5)<sup>1/</sup> of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., when it unilaterally subcontracted laundry work which employees represented by Council 71 and Local 2307, AFSCME, AFL-CIO (the "Union") had previously performed. P.E.R.C. No. 78-16, 3 NJPER 322 (1977). We directed the Board to negotiate with the

<sup>1/</sup> 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; and (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."

Union concerning its decision to subcontract.

On June 30, 1982, after much protracted litigation which need not now be reviewed, the Appellate Division of the Superior Court remanded this case to us for reconsideration in light of In re Local 195, IFPTE, AFL-CIO v. State, 88 N.J. 393 (1982) ("Local 195"), a decision holding that subcontracting decisions are not mandatorily negotiable in the New Jersey public sector. On December 16, 1982, the New Jersey Supreme Court denied the Union's petition for certification from the Appellate Division's remand order.

The Board has submitted a brief urging the Commission to apply Local 195 and to vacate its previous order. The Union has filed a brief asserting that reconsideration would violate the principle of finality of judgments and that Local 195 should not be applied retroactively. The Union does not, however, attempt to distinguish Local 195. The Board has filed a reply memorandum asserting that the Commission cannot consider the Union's arguments concerning the finality of judgments and retroactivity because the Superior Court has clearly ordered that the Commission apply Local 195. The Union has filed a letter memorandum disagreeing with this last assertion.

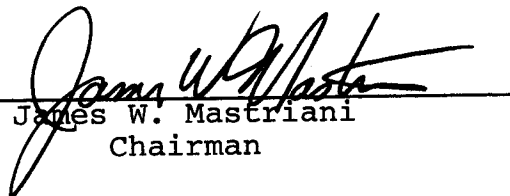
We are constrained to agree with the Board that the Superior Court's order compels us to apply Local 195. Since that case clearly forbids negotiation over good faith management

decisions to subcontract,<sup>2/</sup> we must vacate our previous order and dismiss the Complaint.

ORDER

The order issued in P.E.R.C. No. 78-16, 3 NJPER 332 (1977) is vacated and the Complaint is dismissed.

BY ORDER OF THE COMMISSION

  
James W. Mastriani  
Chairman

Chairman Mastriani, Commissioners Butch, Hartnett, Suskin and Newbaker voted for this decision. Commissioners Graves and Hipp voted against this decision.

DATED: Trenton, New Jersey  
April 19, 1983  
ISSUED: April 20, 1983

<sup>2/</sup> In our original decision, we specifically found that the Board did not violate N.J.S.A. 34:13A-5.4(a)(3) when it subcontracted the laundry work because it was not motivated by a desire to discourage employees from exercising their rights under the Act.