

P.E.R.C No. 90-72

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HOBOKEN BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-H-90-46

HOBOKEN TEACHERS ASSOCIATION,

Charging Party,

-and-

EXECUTIVE COMMITTEE OF THE
HOBOKEN TEACHERS ASSOCIATION,

Intervenor.

SYNOPSIS

The Public Employment Relations Commission denies a motion for reconsideration of P.E.R.C. No. 90-53, 16 NJPER ____ (¶ ____ 1989) filed by the Hoboken Teachers Association. In that decision we found that the Hoboken Board of Education did not violate its duty to negotiate in good faith when it rescinded its ratification of a memorandum of agreement between the Board and the Association. The Commission finds no extraordinary circumstances warranting reconsideration.

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HOBOKEN TEACHERS ASSOCIATION,

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Appearances:

For the Respondent, Murray, Murray & Corrigan
(Robert E. Murray, of counsel; David F. Corrigan,
on the brief)

For the Charging Party, Vincent Germinario

For the Intervenor, Zazzali, Zazzali, Fagella &
Nowak (James R. Zazzali, of counsel)

DECISION AND ORDER

On December 27, 1989, the Hoboken Teachers Association ("charging party") moved for reconsideration of P.E.R.C. No. 90-53, 16 NJPER ____ (¶____ 1989). In that decision, we found that the Hoboken Board of Education did not violate its duty to negotiate in good faith when it rescinded its ratification of a memorandum of agreement between the Board and the Association. We determined that

the Board had sufficient reasons to believe that the Executive Committee of the Hoboken Teachers Association, which had earlier set aside the Association's ratification vote "due to possible irregularities," was the Association's officially designated representative. The charging party claims that we: (1) erred in what we stated were undisputed material facts; (2) omitted undisputed material facts supporting its claim; and (3) improperly applied Commission and court precedent.

On January 4 and 5, 1990, the Board and the Executive Committee, respectively, filed replies claiming that the charging party has presented no "extraordinary circumstances" warranting reconsideration under N.J.A.C. 19:14-8.4.

We have reviewed the motion and find that there are no extraordinary circumstances warranting reconsideration. We will, however, address each of the charging party's claims.

1. The finding that building representatives and the general membership were not invited to a June 29, 1989 ratification meeting is supported by an affidavit submitted by the Executive Committee and was not disputed in the charging party's affidavit or exhibits.

2. New Jersey Education Association ("NJEA") documents do not contradict the finding that the Executive Committee notified the Board that it had voted to set aside the Association's June 29, 1989 ratification vote. Those documents address the validity of the September 1989 election for building representatives. Neither the

documents nor the charging party's November 3, 1989 reply brief addresses the validity of the Executive Committee's July 18, 1989 rescission.

3. Finding no. 4 correctly states that the Executive Committee voted to request Germinario's resignation and notified the Board that it had voted to remove him as the Association's spokesperson. These facts remain undisputed. The charging party's disagreement with our conclusion about the reasonableness of the Board's belief that the Executive Committee represented the Hoboken Teachers Association is not sufficient grounds for reconsideration. State of New Jersey, P.E.R.C. No. 79-53, 5 NJPER 109 (¶10062 1979).

4. Finding no. 7 correctly states the conclusions of the National Education Association ("NEA") and NJEA investigations. Because it involved an internal union matter, we did not make any determination as to whether the NJEA or NEA has the authority to determine who represents the Association.

5. Finding no. 8 accurately reports the Executive Committee's September 26, 1989 action.

6. The charging party's claims about the powers and duties of the Association, its president, its Executive Committee, the NJEA and the NEA predominately concern the internal union dispute and not whether the Board acted reasonably. The charging party's factual assertions about the chronology of events leading to the Board's rescission are not inconsistent with our decision.

7. The charging party now argues that those persons alleged to be the Executive Committee and voting to rescind the memorandum of agreement were not legally elected officials at the time.^{1/} This argument was not made to us in the earlier proceeding and cannot be considered now. City of Orange Tp., P.E.R.C. No. 89-110, 15 NJPER 274 (¶20119 1989). To do so would compromise the finality of our decisional process and encourage parties to create arguments after an initial adverse determination.

8. Finally, there was nothing in the earlier proceeding that compromised the ability of any party to present facts and argument in a timely manner. The Association president's concerns center on an internal union dispute over what individual or individuals are entitled to represent the Association. But, as we stated in our first decision:

We need not resolve what person or body speaks for the Association. That is an internal matter best resolved through internal means. We need only examine the Board's conduct in light of the circumstances it faced. [16 NJPER at ____]

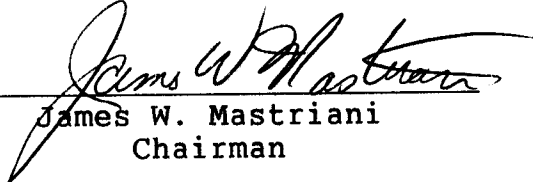
There is no basis now to reconsider that finding.

^{1/} Previously, the charging party argued that the September 1989 building representative elections were invalid and that therefore intervenor status should be denied an Executive Committee comprised of building representatives "illegally elected."

ORDER

The motion for reconsideration is denied.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Wenzler, Ruggiero, Johnson and Smith voted in favor of this decision. None opposed. Commissioners Reid and Bertolino abstained from consideration.

DATED: Trenton, New Jersey
January 31, 1990
ISSUED: February 1, 1990