

P.E.R.C. NO. 82-128

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF MANASQUAN,

Petitioner,

-and-

Docket No. ID-82-12

MANASQUAN P.B.A. LOCAL #284,

Respondent.

SYNOPSIS

The Chairman of the Commission, in an issue definition determination matter, finds that the PBA's proposal involving overtime is economic in nature. The Chairman concluded that the proposal involves hours in relation to earnings and is thus within the statutory definition of what constitutes an economic issue.

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Appearances:

For the Petitioner, Sim, Sinn, Gunning & Fitzsimmons, P.C.
(Kenneth B. Fitzsimmons, of Counsel)

For the Respondent, Sgt. Robert Ackerman

DECISION

A Petition for Issue Definition Determination was filed by the Borough of Manasquan with the Public Employment Relations Commission on April 12, 1982 alleging that a dispute existed as to whether a certain issue which was the subject of collective negotiations between the Borough and Manasquan P.B.A. Local #284 was an economic or non-economic issue as defined in N.J.S.A. 34:13A-16(f)(2). At the time the Petition was filed, a Petition to Initiate Compulsory Interest Arbitration, in accordance with Public Laws of 1977, Chapter 85, was on file with the Commission.

In its Rules adopted to implement the Police and Fire Arbitration Act (Chapter 85), the Commission established a procedure to resolve disputes as to whether issues are economic or non-economic. That procedure is set forth fully at N.J.A.C. 19:16-6.1 et seq. The Rules provide that the Chairman or other

designee of the Commission shall render a written determination which classifies a disputed issue or issues as economic or non-economic within the meaning of N.J.S.A. 34:13A-16(f)(2). These determinations are deemed to be final administrative determinations not subject to review in any proceeding before the Commission.

The sole issue in dispute involves a change proposed by the PBA in Section 2 of Article 10 concerning overtime. The current section of the contract reads:

All overtime shall be paid at the rate of time and one-half (1 1/2) of regular pay. Said time and one-half (1 1/2) overtime shall be paid at the employee's regular rate (straight time) with the one-half (1/2) being paid by extra time off. Further, an employee may elect to take the entire time and one-half (1 1/2) in time off at the employee's option by written request. All requests for such compensatory time off shall be made to the Chief of Police at least fourteen (14) days in advance and the request granted or denied within three (3) days of said request. Permission shall be granted at the convenience of the Department and said permission shall not be unreasonably withheld.

The PBA proposes that all overtime shall be paid at one and one-half times regular rate or the employee may elect to take the one and one-half off compensatory time. The Borough disputes the PBA's characterization of this proposal as "non-economic."

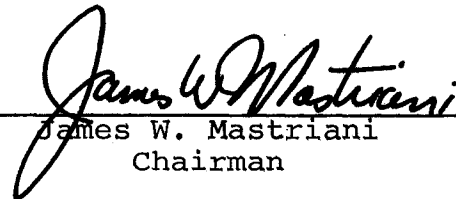
The PBA's position that the issue is non-economic is based on its contention that under its proposal members of the PBA would not receive any additional compensation, since the rate of overtime would remain unchanged. Presently, PBA members must take a portion of the overtime as time off or completely

as time off. Under its option, overtime could be taken either in extra salary or compensatory time off. Even assuming the accuracy of the PBA's contention that its proposal would not involve any increased economic benefit to its members, this fact does not change the essential character of the proposal which is undoubtedly an economic item. A proposal of a zero wage increase, while not providing any additional economic benefit to employees or economic cost to the employer would still nonetheless be characterized as economic and must be considered as part of the overall package of the party making that proposal. Further, the proposal involves "hours in relation to earnings," and thus squarely meets the statutory definition of what constitutes an economic issue. Accordingly, I find, in agreement with the Borough, that this proposal is economic in nature.

ORDER

The proposed change in Article 10, Section 2 shall be included as part of the PBA's economic package when submitted to the interest arbitrator appointed to resolve the impasse in collective negotiations between the Borough and the PBA.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

DATED: Trenton, New Jersey
June 18, 1982