

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MATAWAN REGIONAL BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-77-8-68

MATAWAN REGIONAL TEACHERS' ASSOCIATION,

Charging Party.

SYNOPSIS

In a Decision and Order on Motion, the Commission denies the Board's Petition for Re-hearing, considered as a Motion for Reconsideration under the circumstances, of the Commission's earlier decision and order. In re Matawan Regional Board of Education, P.E.R.C. No. 77-61, 3 NJPER ____ (1977). The Commission finds that not only is the motion almost one month late, but it offers no newly discovered evidence, nor does it raise arguments not previously available. The Commission notes that the particular points raised in the Association's petition were considered and analyzed in the Commission's earlier decision.

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Appearances:

For the Respondent, Gerald L. Dorf, P.A.
(Mr. David A. Wallace, of Counsel)

For the Charging Party, Rothbard, Harris & Oxfeld, Esqs.
(Mr. Emil Oxfeld, of Counsel)

DECISION AND ORDER ON MOTION

On May 13, 1977, the Public Employment Relations Commission issued its Decision on Motion for Summary Judgment in the above-captioned unfair practice proceeding. In re Matawan Regional Board of Education, P.E.R.C. No. 77-61, 3 NJPER ____ (1977). In that decision, the Commission, after carefully considering the entire record including the relevant unfair practice charge, the answer, the relevant arbitration award, the Motion for Summary Judgment filed by the Matawan Regional Board of Education (hereinafter the "Board") along with supporting documents and the brief submitted by the Matawan Regional Teachers' Association (hereinafter the "Association") in opposition to the Board's motion, granted the Board's motion for Summary Judgment.

The charge filed by the Association alleged that the Board had refused to negotiate and to otherwise adhere to an arbitration award rendered

with reference to a dispute concerning alleged contract violations relating to the hours of employment of certain employees represented by the Association. The decision and award of the arbitrator in the relevant grievance was as follows: "The grievance is sustained to the extent of directing the parties to negotiate the impact of the increased time which the special education teachers have been required to work over and above five hours since the 1974-1975 school year." The Commission, relying upon past precedent established in the case of In re State of New Jersey (Stockton State College) P.E.R.C. No. 77-31, 3 NJPER 62 (1976) concluded that this matter should more appropriately be brought as a proceeding to confirm and enforce an arbitration award pursuant to N.J.S.A. 2A:24-7. The Commission therefore ordered that the Board's Motion for Summary Judgment be granted and that the complaint in this matter be dismissed.

On June 22, 1977, the Association filed with the Commission a Petition for Re-Hearing along with a statement of the grounds relied upon in support of said petition. On July 19, 1977, the Board filed a letter memorandum urging that the Association's petition be denied.

N.J.A.C. 19:14-8.4 ^{1/} (formerly N.J.A.C. 19:15-4.1) is entitled "Motions for Reconsideration" and is the applicable provision in the Commission's rules relating to any administrative post-decisional procedures available to a party to a proceeding before the Commission. This rule provides as follows:

"A party to a proceeding before the Commission may, because of extraordinary circumstances, move for reconsideration after the Commission decision has been rendered. The movant shall state with particularity the grounds claimed and, where applicable, shall specify the page of the record relied upon. Any motion pursuant to this section shall be filed within 15 days after service of the

^{1/} On July 13, 1977 the Commission adopted comprehensive rule changes that became effective as of August 2, 1977. There were no changes, procedural or substantive, made relating to any of the sections of the Commission's Rules cited in this decision. There were merely changes in their numeration.

Commission decision. Any such motion shall be printed or otherwise legibly duplicated. Copies shall be served on the parties of record, and a statement of service shall be filed with the motion papers. The filing and pendency of a motion for reconsideration shall not operate to stay the effectiveness of the Commission decision unless otherwise ordered by the Commission. A motion for reconsideration need not be filed to exhaust administrative remedies."

The Association in its petition, which will be considered for purposes of this decision as a Motion for Commission Reconsideration, affirms that the Commission misconstrued the nature of its charge and the relief sought. The Association also asserts that the Commission improperly treated the instant charge as an application for the confirmation of an arbitration award.

The Board opposes this petition as being considerably out of time, having been filed forty (40) days after the Commission's final decision and not within the fifteen (15) days provided. ^{2/} For this reason alone, the Board submits that the Association's petition must be denied. Furthermore, the Board argues that the Association's petition shows no "extraordinary circumstances" warranting further Commission consideration of the case, nor does it raise arguments not previously available to it and should thus be dismissed.

After careful consideration of the parties' submissions with reference to the instant petition, the Commission concludes that the Petition for Re-Hearing should be denied. Not only is this motion almost one month late, but it offers no newly discovered evidence, nor does it raise arguments not

^{2/} The Board also contends that the Association improperly failed to seek an extension of time in which to file its motion although this mechanism is clearly provided for in the Commission's Rules [N.J.A.C. 19:10-2.1(c) formerly N.J.A.C. 19:17-1.1(c)]

previously available. The particular points raised in the Association's petition were considered and analyzed in the Commission's earlier decision. The Commission further concludes that to grant this type of motion absent a showing of compelling circumstances would only serve to further delay a final resolution of this dispute through the appropriate means of judicial enforcement.

We are not satisfied that the Association's Petition for Re-Hearing that we have treated as a Motion for Reconsideration pursuant to N.J.A.C. 19:14-8.4 should be granted and it is hereby denied.

BY ORDER OF THE COMMISSION



Jeffrey B. Tener
Chairman

Chairman Tener, Commissioners Forst, Hartnett and Parcells voted for this decision.
Trenton, New Jersey
Commissioners Hipp and Hurwitz abstained.

DATED: Trenton, New Jersey
August 16, 1977
ISSUED: August 17, 1977