

P.E.R.C. NO. 87-105

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF MERCER,

Respondent,

-and-

Docket No. CO-87-134

PBA LOCAL 167,

Charging Party.

SYNOPSIS

The Chairman of the Public Employment Relations Commission affirms the Director of Unfair Practices' refusal to issue a complaint based on an unfair practice charge filed by PBA Local 167 against the County of Mercer. The charge alleged the County violated the New Jersey Employer-Employee Relations Act when it unilaterally prohibited correction officers from carrying or using a firearm while off duty. The Director held that the carrying of firearms was not a mandatory subject of negotiations. On appeal, the PBA alleged that the subject was mandatorily negotiable because it pertains to employee safety. The Chairman finds, however, that this allegation was not contained in the charge and therefore it was properly dismissed.

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF MERCER,

Respondent,

-and-

Docket No. CO-87-134

PBA LOCAL 167,

Charging Party.

Appearances:

For the Respondent, Walter DeAngelo, County  
Administrator, County of Mercer

For the Charging Party, Wills & O'Neill, Esqs. (G.  
Robert Wills, of counsel)

DECISION AND ORDER

On December 24, 1986, the Director of Unfair Practice Proceedings declined to issue a Complaint with respect to an unfair practice charge filed by PBA Local 167. The Director determined that "the Commission's complaint issuance standard has not been met." The charging party alleged that the County of Mercer violated N.J.S.A. 34:13A-5.4(a)(1), (3) and (5)<sup>1/</sup> when it adopted Executive

---

<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; (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage 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

Order 86-4 on October 21, 1986 which prohibited correction officers from carrying or using a fire arm while off duty. This documentation further subjected any correction officer to discharge for violation of the Order. The Director relied upon Brookdale Community College, P.E.R.C. No. 77-53, 3 NJPER 156 (1977), appeal dismissed App. Div. Dkt. No. A-3041-76. Brookdale held that the subject of whether and at what times members of the College's police force shall carry fire arms is not a required subject for negotiations.

Thereafter, PBA Local 167 filed an appeal with the Commission seeking a reversal of the decision and the issuance of a complaint. In its appeal, it relies upon an allegation that if given the opportunity to be heard, a demonstration could be made that the fire arm issue relates to an employee's safety and therefore is subject to the duty to negotiate.

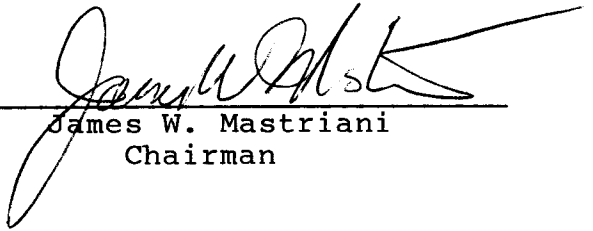
It is apparent from a review of the unfair practice charge that the allegations made in the appeal were not contained in the charge. Thus, the Director properly dismissed the unfair practice charge.

---

1/ Footnote Continued From Previous Page

terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative."

Acting under authority delegated to me by the full  
Commission, I dismiss the appeal without prejudice.



---

James W. Mastriani  
Chairman

DATED: Trenton, New Jersey  
March 13, 1987