

STATE OF NEW JERSEY  
MERIT SYSTEM BOARD  
AND  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF ORANGE TOWNSHIP -  
FIRE DEPARTMENT LAYOFF,

OAL DKT. NO. CSV 3113-99  
AGENCY DKT. NO. 1999-00598

---

CITY OF ORANGE FIRE OFFICERS,  
LOCAL 210,

Charging Party,

-and-

PERC DKT. NO. CO-H-99-39

TOWNSHIP OF ORANGE,

Respondent.

---

SYNOPSIS

The Chair of the Public Employment Relations Commission, in a joint order with the Merit System Board, finds that an unfair practice charge filed by the City of Orange Fire Officers Association, Local 210 against the City of Orange Township should be consolidated with a layoff/demotion appeal to the Merit System Board filed by the Association on behalf of four officers. The Administrative Law Judge will first offer recommended findings of fact and conclusions of law to both the Commission and Merit System Board, disposing of all issues in controversy through a single initial decision. Upon transmittal of the initial decision to both agencies, the Commission will review the matter and the record will then be forwarded to the Merit System Board for review. Where appropriate, the matter will be returned to the Commission for its consideration of whether specialized relief is warranted under its Act.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

STATE OF NEW JERSEY  
MERIT SYSTEM BOARD  
AND  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF ORANGE TOWNSHIP -  
FIRE DEPARTMENT LAYOFF,

OAL DKT. NO. CSV 3113-99  
AGENCY DKT. NO. 1999-00598

---

CITY OF ORANGE FIRE OFFICERS,  
LOCAL 210,

Charging Party,

-and-

PERC DKT. NO. CO-H-99-39

TOWNSHIP OF ORANGE,

Respondent.

---

Appearances:

For the Appellants, Fox & Fox, attorneys  
(Stacey B. Rosenberg, of counsel)

For the Charging Party, John D. Feeley, President

For the Respondent, McCormack & Matthews, attorneys  
(Thomas M. McCormack, of counsel)

JOINT DECISION

On June 23, 1998, the City of Orange Fire Officers Association, Local 210 filed an appeal to the Merit System Board on behalf of Local 210, Deputy Chiefs James Fonzino and Charles Messina and Captains Frank DeAngelis and Guy DeVincentis. The appellants allege that the City of Orange Township's

layoff/demotion actions affecting these employees were in bad faith; in violation of the Civil Service Act, N.J.S.A. 11A:1-1 et seq.; and did not follow required pre-layoff actions including negotiations and discussions with Local 210 or the appellants to explore the possibility of cost-saving initiatives as well as alternatives to layoff. The appeal was transmitted to the Office of Administrative Law as a contested case.

On August 10, 1998, Local 210 filed an unfair practice charge against the City of Orange Township. The charge alleges that the demotions were an attempt to influence the union's position in interest arbitration and were intended to chill negotiations in violation of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq.

On April 26, 1999, the City filed a motion for consolidation. It argued that both actions arise from the City's layoff plan and involve the City's motivation for that plan.

On May 18, 1999, Local 210 and Captains Fonzino and Messina filed certifications opposing consolidation.

On January 4, 2000, Administrative Law Judge Ken R. Springer issued an Order of Consolidation and Predominant Interest. He found that both agencies have subject matter jurisdiction over the claim that the City acted in bad faith, the sole issue in dispute is whether the City acted in good faith, both the individual employees and the union share a common interest in ensuring that firefighters are treated fairly and are

not victims of anti-union animus, both agencies have broad remedial authority, and both appeals are inextricably intertwined and incapable of separation. The Judge ordered that the cases be consolidated and that the Board be found to have the predominant interest.

Having independently evaluated the record and considered the Administrative Law Judge's order, the Merit System Board at its meeting on February 8, 2000 and the Chair of the Public Employment Relations Commission, acting pursuant to authority delegated to her by the full Commission, on January 20, 2000 made the following determination in this matter.

JOINT ORDER

The above matters are consolidated for hearing before the Administrative Law Judge. The Judge will first offer recommended findings of fact and conclusions of law to both the Public Employment Relations Commission and the Merit System Board, disposing of all issues in controversy through a single initial decision under N.J.S.A. 1:1-18.3 and consistent with N.J.A.C. 1:1-17.8(a); and

Upon transmittal of the initial decision to both agencies, the underlying record will be forwarded to the Commission to determine whether protected activity was a substantial or motivating factor in the layoff/demotions; and

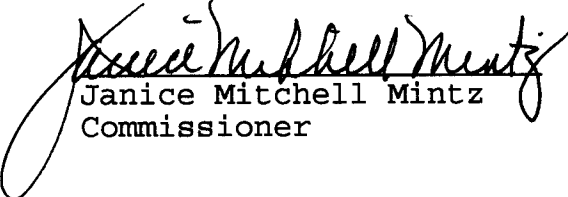
The Commission's decision and the complete record will then be sent to the Merit System Board which will then determine


whether the layoff/demotions were for legitimate business reasons and were otherwise warranted under Merit System Law; and

Where appropriate, the matter will be returned to the Commission for its consideration of whether specialized relief is warranted under its Act.

DECISION RENDERED BY THE  
MERIT SYSTEM BOARD ON  
FEBRUARY 8, 2000

DECISION RENDERED BY THE CHAIR OF  
THE PUBLIC EMPLOYMENT RELATIONS  
COMMISSION ON JANUARY 20, 2000

  
Janice Mitchell Mintz  
Commissioner

  
Millicent A. Wasell  
Chair

DATED: Trenton, New Jersey  
February 10, 2000

DATED: Trenton, New Jersey  
January 20, 2000