

P.E.R.C. NO. 80-102

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF ELIZABETH,

Petitioner,

-and-

Docket No. ID-80-5

F.M.B.A., BRANCH NO. 9,

Respondent.

SYNOPSIS

The Chairman of the Commission, pursuant to N.J.A.C. 19:16-6.2(e), issues a decision in an issue definition determination matter. The Chairman concluded that the holiday pay issue in dispute is an economic issue as it directly affects employees' income and economic fringe benefits as defined in N.J.S.A. 34:13A-16(f)(2).

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Appearances:

For the Petitioner, Murray, Granello & Kenney, Esqs.
(Mr. Robert E. Murray, of Counsel, Mr. Mark J. Blunda,
on the Brief)

For the Respondent, Goldberger, Siegel & Finn, Esqs.
(Mr. Howard Goldberger, of Counsel)

DECISION

A Petition for Issue Definition Determination, Docket No. ID-80-5, was filed by the City of Elizabeth (the "City") with the Public Employment Relations Commission on November 20, 1979 to resolve a dispute as to whether a certain issue relating to holiday pay is economic or noneconomic as defined in N.J.S.A. 34:13A-16(f)(2). At the time the Petition was filed, the City was engaged with F.M.B.A., Branch No. 9 (the "FMBA") in compulsory interest arbitration in accordance with Public Laws of 1977, Chapter 85. On December 18, 1979, Arbitrator Jonas Aarons issued his interest arbitration award. The Commission deferred issuing its issue definition decision in this matter when it appeared that

the dispute was rendered moot by the arbitration award.^{1/} However, the Commission has been informed that inasmuch as the FMBA has announced its intention to appeal the arbitration award, the City now requests that a decision issue concerning the issue definition matter in dispute.

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 noneconomic or 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 the disputed issue or issues as economic or noneconomic 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 purpose of the procedure, therefore, is simply to provide a means for resolving disputes as to whether issues are economic or noneconomic. All issues must be classified as one or the other so that the final offers of the parties can be properly considered by the arbitrator who is to consider all economic issues as a package and all noneconomic issues on an item by item basis. The arbitration mechanism requires this classification of disputed issues.

^{1/} The arbitrator noted that the instant petition was pending before the Commission when he issued his award. The arbitrator did not believe that it was necessary for the Commission to issue its decision on the issue definition dispute prior to his award since he stated that he would reject the new holiday pay proposal if such an item was classified as a non-economic matter and remarked that the FMBA would withdraw its demand on this issue if the Commission found the proposal to relate to an economic item. Aarons' award would therefore have been the same regardless of the resolution of the pending issue definition dispute.

Section 3 of the Police and Fire Arbitration Act, N.J.S.A. 34:13A-16(f)(2), defines economic issues as including "...those items which have a direct relation to employee income including wages, hours in relation to earnings, and other forms of compensation such as paid vacations, paid holidays, health and medical insurance, and other economic benefits to employees." (emphasis added). What is germane in classifying these issues is the effect on employees. Would the item, if agreed to by the parties, affect an employee's income, hours, or economic fringe benefits.^{2/}

The FMBA's final offer proposal concerning the issue definition matter in dispute states that firefighters would be given five (5) paid holidays off and receive an annual lump sum payment of six (6) additional days. This lump sum payment would be made in November of each year and would be calculated on a 12 hour, rather than the current 8 hour, workday. Thus, in November of each year every firefighter would receive an additional 72 hours of pay.^{3/}


^{2/} In re Township of Saddle Brook, P.E.R.C. No. 78-73, 4 NJPER 195 (¶4098 1978); In re Township of Springfield, P.E.R.C. No. 80-86, 6 NJPER ____ (¶____ 1980) and In re County of Essex, P.E.R.C. No. 80-101, 6 NJPER ____ (¶____ 1980).

^{3/} The present holiday provision included within the current collective bargaining agreement between the parties (Article IX) provides that employees working a 42 hour schedule are entitled to compensatory time off for a total of 104 hours per calendar year. Presently employees working a 40 hour schedule receive 13 enumerated holidays, for which they are paid eight hours of straight time pay. All compensatory time earned for holidays must be used by April 1 of the year following that in which it was earned, or it would be forfeited.

The City filed a brief in support of its position that the above-cited article was an economic issue, but the FMBA chose not to file a positional statement in this matter.

After careful consideration of the matter in dispute, the undersigned concludes that the disputed matter is an economic issue as the proposal directly affects employees' income and economic fringe benefits, including paid holidays which is specifically cited as an example of an economic benefit to employees in N.J.S.A. 34:13A-16(f)(2).^{4/}

BY ORDER OF THE COMMISSION



Jeffrey B. Tener
Chairman

DATED: February 21, 1980
Trenton, New Jersey

^{4/} No order appears to be necessary in this matter because of the procedural history of this case. See note 1.