

P.E.R.C. NO. 95-110

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF HUDSON,

Petitioner,

-and-

Docket No. SN-95-29

DISTRICT 1199J, NUHHCE,
AFSCME, AFL-CIO,

Respondent.

SYNOPSIS

The Public Employment Relations Commission declines to restrain binding arbitration of a grievance filed by District 1199J, NUHHCE, AFSCME, AFL-CIO against the County of Hudson. The grievance asserts that the employer violated the parties' collective negotiations agreement when it issued a final warning to a licensed practical nurse. In Hudson Cty., P.E.R.C. No. 95-48, 21 NJPER 73 (¶26051 1995), appeal pending App. Div. Dkt. No. A-3483-94T1, the Commission declined to restrain binding arbitration of a minor disciplinary determination involving the same parties. That decision governs this case. Accordingly, the Commission declines to restrain arbitration.

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.

P.E.R.C. NO. 95-110

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF HUDSON,

Petitioner,

-and-

Docket No. SN-95-29

DISTRICT 1199J, NUHHCE,
AFSCME, AFL-CIO,

Respondent.

Appearances:

For the Petitioner, Genova, Burns, Trimboli & Vernoia,
attorneys (Stephen E. Trimboli, of counsel)

For the Respondent, Balk, Oxfeld, Mandell & Cohen,
attorneys (Arnold S. Cohen, of counsel)

DECISION AND ORDER

On September 30, 1994, the County of Hudson petitioned for a scope of negotiations determination. The County seeks a restraint of binding arbitration of a grievance filed by District 1199J, NUHHCE, AFSCME, AFL-CIO. The grievance asserts that the employer violated the parties' collective negotiations agreement when it issued a final warning to a licensed practical nurse.

The County is a Civil Service jurisdiction. The Merit System Board, formerly the Civil Service Commission, reviews certain disciplinary disputes arising in Civil Service jurisdictions. Warnings may not be appealed as of right to the Merit System Board.

District 1199J represents the County's non-supervisory licensed practical nurses and registered nurses. The grievance procedure in the parties' collective negotiations agreement ends in binding arbitration of contractual disputes for which there is no appeal mechanism prescribed by Civil Service law. Article XXXI is entitled Disciplinary Action and limits disciplinary actions, depending upon the severity of the offense, to: 1) oral reprimand, 2) written reprimand, 3) suspension, or 4) discharge.

Terry Monterosse is a licensed practical nurse holding a permanent appointment. On December 28, 1993, her supervisor issued a notice of recommended disciplinary action charging Monterosse with excessive absenteeism, neglect of duty, and conduct unbecoming a public employee. No penalty was recommended.

On January 9, 1994, a Preliminary Notice of Disciplinary Action was issued. This Civil Service form repeated the charges and added that a suspension or removal was possible.

On March 2, 1994, the County issued Monterosse a "final warning concerning chronic or excessive absenteeism." The warning placed Monterosse on probation and stated that she would be terminated if she exceeded 15 sick days or exceeded her credited sick days in 1994, 1995, or 1996, regardless of whether or not the absences were for legitimate reasons.

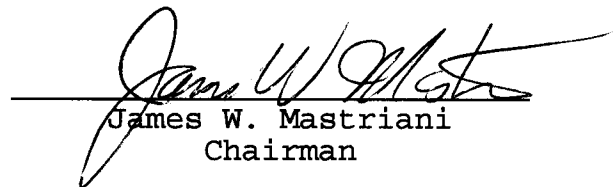
District 1199J grieved the warning. The County denied the grievance and District 1199J demanded arbitration. This petition ensued.

In Hudson Cty., P.E.R.C. No. 95-48, 21 NJPER 73 (¶26051 1995), appeal pending App. Div. Dkt. No. A-3483-94T1, we declined to restrain binding arbitration of a minor disciplinary determination involving the same parties. That decision governs this case. Accordingly, we decline to restrain arbitration.

ORDER

The request of the County of Hudson for a restraint of binding arbitration is denied.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Boose, Buchanan, Finn, Klagholz and Ricci voted in favor of this decision. None opposed. Commissioner Wenzler was not present.

DATED: June 12, 1995
Trenton, New Jersey
ISSUED: June 13, 1995