

P.E.R.C. NO. 95-113

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF DUNELLEN,

Petitioner,

-and-

Docket No. SN-95-57

POLICEMEN'S BENEVOLENT ASSOCIATION
LOCAL NO. 146,

Respondent.

SYNOPSIS

The Public Employment Relations Commission determines the negotiability of three successor contract proposals submitted by Policemen's Benevolent Association Local No. 146 to the Borough of Dunellen. A "Vacation Time" provision is not mandatorily negotiable to the extent it requires the employer to replace officers absent due to vacations. One sentence of a "Posting of Schools" provision is not mandatorily negotiable because it interferes with the employer's ability to determine which officers should receive training. A sentence in a "Transfer and Reassignment" provision precluding shift changes between December 15 and January 1 is not mandatorily negotiable as worded.

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.

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Appearances:

For the Petitioner, Ruderman & Glickman, attorneys
(Leonard C. Schiro, of counsel)

For the Respondent, Klatsky & Klatsky, attorneys
(Fred M. Klatsky, of counsel)

DECISION AND ORDER

On December 15, 1994, the Borough of Dunellen petitioned for a scope of negotiations determination. The Borough seeks a declaration that three successor contract proposals submitted by Policemen's Benevolent Association Local No. 146 are not mandatorily negotiable.

The parties have filed their predecessor contract and briefs. These facts appear.

Local No. 146 represents the Borough's police officers except the chief. The parties' most recent contract expired on June 30, 1994. The parties have engaged in successor contract negotiations and Local No. 146 has petitioned for interest arbitration. Local No. 146 has asked that three provisions from the

previous contract be carried over into a new contract. The Borough responded that the provisions are not mandatorily negotiable and filed this petition.

Article VIII is entitled Vacation Time. Section 6 provides:

Pursuant to the discretion of the Chief of Police, no valid vacation request shall be denied. If the shift vacancy cannot be voluntarily filled, a regular officer shall be assigned to work from the immediate proceeding shift by the shift commander. A superior officer will replace a superior officer and a patrolman will replace a patrolman unless the situation is physically impossible. This Section shall not be applicable for Christmas Eve, Christmas Day, New Year's Eve, New Year's Day and Thanksgiving Day.

The Borough asserts that the third sentence of this section is not mandatorily negotiable because this sentence allegedly forces it to replace an officer taking a vacation. Local No. 146 responds that it recognizes that an employer has a prerogative to decide whether or not it will replace an absent officer, but contends that this clause is an overtime allocation clause that applies only when the employer has elected to replace an officer. While there does not seem to be a dispute over the employer's right to determine staffing levels, we reaffirm that to the extent section 6 can be read to require the employer to fill vacancies, it is not mandatorily negotiable.

Article XX is entitled Posting of Schools. This article provides:

All information received by the Chief of Police or his designated representative pertaining to Police schools, seminar, etc., shall be immediately posted on the bulletin board so that all interested officers may have a fair chance to

request being sent to the same by the Borough, or to make arrangements to attend same on their own time. Officers should have the right to attend schools, seminars, etc. on a seniority basis, except under special circumstances as determined by the Chief or if the Borough chooses not to send anyone on the Borough's time and/or money. Grievances arising under this Article shall be submitted only on the basis that the Chief of Police cited arbitrary or capricious reasons for determining that a special reason precluded the selection of the most senior applicant.

The employer asserts that the second sentence of this clause is not mandatorily negotiable because it interferes with its ability to determine which officers should receive training. Local No. 146 responds that this sentence should be held mandatorily negotiable because the "except" clause preserves the employer's right to train the employees it wants. We have held that the determination of how to train employees and the selection of employees to receive training are managerial prerogatives. Town of Hackettstown, P.E.R.C. No. 82-102, 8 NJPER 308 (¶13136 1982); Town of Kearny, P.E.R.C. No. 81-70, 7 NJPER 14, 18 (¶12006 1980); see also Middlesex Cty. Bd. of Social Services, P.E.R.C. No. 92-93, 18 NJPER 137, 139 (¶23065 1992); Franklin Tp., P.E.R.C. No. 85-97, 11 NJPER 224 (¶16087 1985). The second sentence of this clause is not mandatorily negotiable under these precedents.^{1/}

Article XXIV is entitled Transfer and Reassignment. One sentence of this article precludes shift changes between December 16

^{1/} As in Hackettstown, we differentiate the mandatorily negotiable subject of tuition reimbursements for those officers who have taken police related courses to further their own advancement in the field.

and January 1. We agree with the employer that this sentence is not mandatorily negotiable without a qualification permitting shift changes necessary to meet emergencies or other governmental policy needs during that period. Town of Phillipsburg, P.E.R.C. No. 83-122, 9 NJPER 209 (¶14098 1983); Borough of Pitman, P.E.R.C. No. 82-50, 7 NJPER 678 (¶12306 1981).

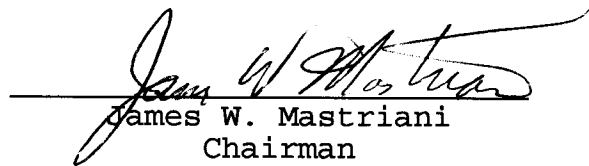
ORDER

Section 6 of Article VIII is not mandatorily negotiable to the extent it requires the employer to replace officers absent due to vacations.

The second sentence of Article XX is not mandatorily negotiable.

The sentence in Article XXIV precluding shift changes between December 15 and January 1 is not mandatorily negotiable as worded.

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