

P.E.R.C. NO. 79-92

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RUTGERS, THE STATE UNIVERSITY,

Petitioner,

-and-

Docket No. SN-79-73

LOCAL 1761, AFSCME, COUNCIL 52,

Respondent.

SYNOPSIS

The Commission denies a motion for reconsideration filed by Rutgers because the argument raised goes to the merits of the grievance rather than to its negotiability and because a claimed factual error in the Commission's decision, P.E.R.C. No. 79-75, 5 NJPER \_\_\_\_ (¶ 1979), had no bearing on the negotiability determination.

P.E.R.C. NO. 79-92

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of  
RUTGERS, THE STATE UNIVERSITY,  
Petitioner,

-and-

Docket No. SN-79-73

LOCAL 1761, AFSCME, COUNCIL 52,  
Respondent.

DECISION ON MOTION FOR  
RECONSIDERATION

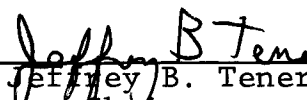
On April 27, 1979, the Commission issued a Decision and Order in the instant matter in which it held that the subject matter of the dispute concerned a required subject for collective negotiations and was arbitrable within the limits of the parties' contract. The dispute concerned the assignment of certain dispatching duties to police officers rather than to desk dispatchers employed in another unit. P.E.R.C. No. 79-72, 5 NJPER \_\_\_\_ (¶ \_\_\_\_ 1979). The grievance actually related to the question of whether certain dispatching work was to be performed by employees represented by the respondent in the instant matter who would be working overtime or by police officers in a separate unit who would be working on a regular time basis. The petitioner filed a Motion for Reconsideration of our decision.

That motion is hereby denied with the following comments. First, the petitioner submits that the Commission relied upon facts not contained in the submissions of the parties. It appears to us from the statement of facts submitted by both parties that the

disputed work was performed by both desk dispatchers and police officers from January 6, 1978, when one of the dispatchers became ill, until February 9, 1979. The grievance applied only to the work performed subsequent to February 9, 1978 and terminating on June 29, 1978. It is immaterial whether all work between February 9, 1978 and June 29, 1978 was performed by police officers or was divided between police officers and desk dispatchers. The only thing that was relevant to our determination was whether this issue involved a required subject for collective negotiations and our conclusion was that such a dispute does indeed relate to a required subject for collective negotiations.

Second, the petitioner raises an argument that suggests that the arbitrator referred to a provision of the collective negotiations agreement relating to the distribution of overtime when overtime work was available and it is the petitioner's position that it is a management prerogative to assign work so as to obviate the need for overtime. That argument addresses the merits of the grievance rather than the negotiability issue. Accordingly, that argument was inappropriately raised before the Commission.

BY ORDER OF THE COMMISSION

  
\_\_\_\_\_  
Jeffrey B. Tener  
Chairman

Chairman Tener, Commissioners Graves, Hartnett, Hipp, Newbaker and Parcels voted for this decision. None opposed.

DATED: Trenton, New Jersey  
May 22, 1979  
ISSUED: May 23, 1979