

P.E.R.C. NO. 98-78

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

EDISON TOWNSHIP,

Petitioner,

-and-

Docket No. SN-97-100

EDISON PAID FIRE OFFICERS'
ASSOCIATION, LOCAL 2883, IAFF,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies a motion of the Edison Paid Fire Officers' Association, Local 2883, IAFF for reconsideration of the Commission's decision in P.E.R.C. No. 98-15. In that case, the Commission held, in part, that a parity clause in the contract between the Association and Edison Township was not mandatorily negotiable and could not be included in a successor agreement between the parties. The Commission does not find any extraordinary circumstances warranting reconsideration of its decision.

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, Weiner Lesniak, attorneys
(Eric M. Bernstein, of counsel)

For the Respondent, Courter, Koubert, Laufer & Cohen,
attorneys (Fred M. Knapp, of counsel)

DECISION

On September 16, 1997, the Edison Paid Fire Officers' Association, Local 2883, IAFF moved for reconsideration of P.E.R.C. No. 98-15, 23 NJPER 490 (¶28236 1997). That decision held, in part, that a parity clause in the contract between Local 2883 and Edison Township was not mandatorily negotiable and could not be included in a successor agreement between the parties.

Local 2883 has filed a certification, exhibits and a brief in support of its motion. The Township has submitted a letter brief opposing reconsideration. These facts appear.

On April 7, 1997, the Township filed its scope of negotiations petition. The petition stated: "The Township

contends, as it has during the collective bargaining process, that there are several items which are beyond the scope of negotiations...." By letter dated April 14, 1997, Local 2883 asserted that the scope of negotiations petition should be dismissed because it was not filed within 10 days of the filing of the interest arbitration petition that it had filed on March 14, 1997. Local 2883 repeated its assertion through additional filings while the scope of negotiations case was pending.

We declined to dismiss the Township's petition and noted:

Local 2883 does not dispute that the employer advised it, before it filed its interest arbitration petition, of the employer's position with respect to the disputed articles.
[23 NJPER at 490]

Local 2883 seeks reconsideration on the ground that this statement was in error. It asserts that it had, in a response to the reply brief filed by the Township, disputed the employer's assertion that it had told Local 2883 during negotiations of its position that the six articles identified in the scope of negotiations petition were non-negotiable.

N.J.A.C. 19:13-3.5 provides that after a reply brief is filed, no other briefs shall be served or filed without leave to do so. No such leave was sought in this case. Nevertheless, even if we assume that the Township did not inform Local 2883 of its position with respect to the negotiability of the disputed articles, we do not believe that there are extraordinary circumstances warranting reconsideration of our decision.

Based on long-standing and settled case law, the disputed parity clause is not mandatorily or permissively negotiable. Thus, even if we were to dismiss the Township's petition as untimely filed under N.J.A.C. 19:16-5.5(c) and the clause were to remain in the parties' contract, it would not be enforceable through binding arbitration. In addition, because the Township's petition was filed before the parties had to submit their final offers, denial of this motion would not unduly harm Local 2883 or unduly delay the interest arbitration proceedings. Accordingly, without prejudice to the application of N.J.A.C. 19:16-5.5(c) in a future case, reconsideration is denied.

ORDER

Reconsideration is denied.

BY ORDER OF THE COMMISSION



Millicent A. Wasell
Chair

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

DATED: December 18, 1997
Trenton, New Jersey
ISSUED: December 19, 1997