

P.E.R.C. NO. 79-25

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

LAKWOOD BOARD OF EDUCATION,

Respondent,

-and-

Docket Nos. CO-77-165-108  
CO-77-267-112

LAKWOOD EDUCATION ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies a request of the Board of Education for a stay of the Commission's decision, P.E.R.C. No. 79-17, issued on October 25, 1978. In that decision, the Commission found that the Board had committed unfair practices when it refused to reappoint two coaches in its girls' varsity sports program in retaliation for their successful prosecution of grievances. The Board has filed a Notice of Appeal from the Commission's decision and order and the Commission notes that the court rules authorize application to the Appellate Division for a stay of the Commission's decision pending appeal. Thus, the request for a stay is denied.

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Appearances

For the Respondent, Rothstein, Mandell & Strohm, Esqs.  
(Mr. Peter R. Strohm, of Counsel)

For the Charging Party, Starkey and Kelly, Esqs.  
(Mr. James M. Blaney, of Counsel)

DECISION AND ORDER ON APPLICATION FOR STAY

On October 25, 1978 the Public Employment Relations Commission issued its Decision and Order in the above-entitled consolidated unfair practice proceedings. Both matters were filed by the Lakewood Education Association against the Lakewood Board of Education and alleged that the Board had committed unfair practices within the meaning of the New Jersey Employer-Employee Relations Act when it refused to rehire two coaches in its girls' varsity sports program in retaliation for each person's successful processing of grievances. See P.E.R.C. No. 79-17, 4 NJPER \_\_\_\_ (¶ 1978), bearing the same captions.

In its decision and order the Commission found that the Board had violated the Act. It did this in agreement with the findings of fact and conclusions of law of its Hearing Examiner,

after carefully reviewing the entire record and the exceptions and briefs which had been filed by the Board. It therefore ordered the Board to offer both individuals the coaching positions that had been unlawfully denied them and to make them whole for any loss of pay suffered as a result of the Board's discriminating actions. It was further ordered that the Board cease and desist from similar conduct in the future and to post a notice to employees advising them of the decision. On October 31, 1978 the Board filed a Notice of Appeal from the Commission's decision and order.

On November 6, 1978 the Commission received a Notice of Motion with a supporting affidavit from the Board which requests a stay of the Decision and Order pending the decision of the Appellate Division of the Superior Court on the appeal. The Commission has reviewed the Board's application and discussed this matter at its November 14, 1978 meeting and hereby denies the request for a stay.

With respect to the merits of this case the violation found by this Commission involves discriminatory conduct directed at two specific individuals which has resulted in significant harm to them both professionally and personally. Having found such a violation it is our opinion that it should be remedied as expeditiously as possible.

Moreover pursuant to N.J.S.A. 34:13A-5.4(f) and the recent Supreme Court decision in Galloway Township Board of Education vs. Galloway Township Education Ass'n, \_\_\_ N.J. \_\_\_ (decided Aug. 1, 1978), it is appropriate for the Commission to participate in an

appeal from its decision bearing primary responsibility for seeking enforcement of its order. While the Commission in no way means to suggest that the Board herein will not comply with the decision and order if it is affirmed on appeal, it is possible that the Commission will become an active party in this appeal. Under these circumstances it would appear more appropriate for this application for a stay to be directed to the Appellate Division. In this regard the Commission notes that Court Rule 2:9-7 specifically authorizes applications to the Appellate Division for stays of administrative decisions pending appeal.

For all these reasons the application for a stay is denied.

BY ORDER OF THE COMMISSION

  
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Jeffrey B. Tener  
Chairman

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

DATED: Trenton, New Jersey  
November 14, 1978

ISSUED: November 24, 1978