

P.E.R.C. NO. 2003-26

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF KENILWORTH,

Public Employer,

-and-

MICHAEL MAURO,

Docket No. RD-2002-11

Petitioner,

-and-

UNION COUNCIL NO. 8,

Intervenor.

SYNOPSIS

The Public Employment Relations Commission denies Union Council No. 8's motion for reconsideration of the Chair's decision not to consider a request for review of D.R. No. 2003-4. The Chair noted several defects in the request, including that it was untimely. The Commission concludes that there are no extraordinary circumstances warranting reconsideration of the Chair's 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 Public Employer, Ruderman & Glickman, attorneys
(Allan C. Roth, of counsel)

For the Petitioner, Michael Mauro, representative

For the Intervenor, Loccke & Correia, attorneys (Michael
Bukosky, of counsel)

DECISION

On September 30, 2002, Union Council No. 8 moved for reconsideration of a decision of the Commission Chair finding that a request for review of D.R. No. 2003-4, 28 NJPER ____ (¶____ 2002) could not be considered. The Chair noted these defects in the request: (1) it did not appear to have been served on the petitioner; (2) it did not comply with the requirements of N.J.A.C. 19:11-8.3 that it be a self-contained document both

specifying the ground supporting review and addressing the merits of the issues for which relief is sought; and (3) it was untimely.

Council No. 8's motion argues that there is no petitioner to be served and that its request was timely.

We reject Council No. 8's argument that there was no petitioner to serve. Michael Mauro filed the petition and was captioned as the Petitioner in the decision Council No. 8 sought to have the Commission review. Accordingly, service upon him was required.

We also reject the argument that the request for review was timely. Requests for review are due within thirteen days of when a decision is sent by mail -- ten days for the request, N.J.A.C. 19:11-8.1, and three days added to account for the time it takes to receive the decision by mail, N.J.A.C. 19:10-2.1. Requests are not due thirteen days after a decision is actually received. The Director's decision was issued by mail on August 28, 2002. A request for review was therefore due on September 10. Council No. 8's request was received on September 11 and was therefore untimely.

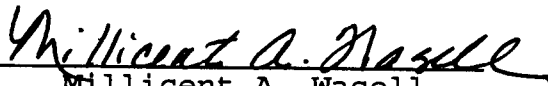
In addition, the Chair's letter indicated that Council No. 8's submission was not a self-contained document both specifying the ground supporting review and addressing the merits of the issue for which relief is sought. The motion for reconsideration does not address that issue.

Under all these circumstances, there are no extraordinary circumstances warranting reconsideration of the Chair's decision.

ORDER

The motion for reconsideration is denied.

BY ORDER OF THE COMMISSION


Millicent A. Wasell
Chair

Chair Wasell, Commissioners Katz, Mastriani, McGlynn, Ricci and Sandman voted in favor of this decision. Commissioner Buchanan abstained from consideration. None opposed.

DATED: October 31, 2002
Trenton, New Jersey
ISSUED: November 1, 2002