

P.E.R.C. NO. 2004-13

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF IRVINGTON,

Respondent,

-and-

Docket Nos. CO-2003-240  
CO-2003-241

PBA LOCAL 29 and  
IRVINGTON POLICE SUPERIOR  
OFFICERS ASSOCIATION,

Charging Parties.

SYNOPSIS

The Public Employment Relations Commission denies the request of P.B.A. Local 29 and Irvington Polices Superior Officers Association for reconsideration of I.R. No. 2004-1. In that decision, a Commission designee denied the charging parties' application for interim relief based on unfair practice charges filed against the Township of Irvington. The Commission concludes that the designee analyzed the case law and applied its holdings to the parties' contractual provisions and finds no extraordinary circumstances to warrant reconsideration of the designee's determinations.

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.

P.E.R.C. NO. 2004-13

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF IRVINGTON,

Respondent,

-and-

Docket Nos. CO-2003-240  
CO-2003-241

PBA LOCAL 29 and  
IRVINGTON POLICE SUPERIOR  
OFFICERS ASSOCIATION,

Charging Parties.

Appearances:

For the Respondent, Eric Bernstein & Associates,  
attorneys (Eric Bernstein, of counsel)

For Charging Party PBA Local 29, Laufer, Knapp,  
Torzewski & Delena, attorneys (Frederic Knapp, of  
counsel)

For Charging Party Irvington Police SOA, Mets, Schiro &  
Kleinle, attorneys (James M. Mets, of counsel)

DECISION

On July 18, 2003, PBA Local 29 and the Irvington Police Superior Officers Association moved for reconsideration of I.R. No. 2004-1, 29 NJPER 307 (¶95 2003). In that decision, a Commission designee denied the charging parties' application for interim relief based on unfair practice charges filed against the Township of Irvington. The charges allege that the employer violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., when it announced that effective April 3, 2003,

all police work schedules would be changed and that all "vacation selection appoints" were cancelled. The designee had previously denied interim relief in I.R. No. 2003-12, 29 NJPER 174 (¶49 2003). The unions sought reconsideration of that decision and we remanded the matter so the designee could address any possible application of the principles articulated in two prior Commission cases to this dispute -- Teaneck Tp., P.E.R.C. No. 2000-33, 25 NJPER 450 (¶30199 1999), aff'd in pt., rev'd in pt. and rem'd, 353 N.J. Super. 289 (App. Div. 2002), certif. granted 175 N.J. 76 (2002) and City of Clifton, P.E.R.C. No. 2002-56, 28 NJPER 201 (¶33071 2002). The designee did so in a new decision, and the unions have again moved for reconsideration.

The unions argue that the designee erred by failing to properly apply Clifton; and that this clear error of law constitutes an extraordinary circumstance warranting reconsideration by the full Commission. The unions further disagree with the designee's conclusion that "the contract clearly and unambiguously provided that the trial period expires at the end of 2002."

The employer opposes reconsideration. It argues that the designee properly applied Clifton, but that even if she did not, that failure would not constitute an extraordinary circumstance warranting reconsideration. In addition, the employer argues that the designee rightfully relied on clear, unambiguous and

unequivocal contract language to conclude that the unions had not demonstrated a substantial likelihood of prevailing in a final Commission decision.


Reconsideration will be granted only in extraordinary circumstances. N.J.A.C. 19:14-8.4. Such circumstances are not present here.

The designee analyzed Teaneck and Clifton and applied their principles to the parties' contractual provisions. Our holdings in Teaneck and Clifton permit parties to agree that an employer may restore a previous work schedule at the end of a trial period; the designee found that the parties had done precisely that by agreeing upon an experimental schedule for a fixed trial period and that they mutually understood that the experimental schedule had not become part of the status quo and could be rescinded at the end of the trial period. No extraordinary circumstances warrant full Commission reconsideration of the designee's resolution of that contractual issue. Accordingly, the motion for reconsideration is denied.

ORDER

The motion for reconsideration is denied.

BY ORDER OF THE COMMISSION

  
\_\_\_\_\_  
Millicent A. Wasell  
Chair

Chair Wasell, Commissioners Buchanan, DiNardo, Katz, Ricci and Sandman voted in favor of this decision. None opposed. Commissioner Mastriani was not present.

DATED: September 25, 2003  
Trenton, New Jersey  
ISSUED: September 25, 2003