

P.E.R.C. NO. 2004-42

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY STATE JUDICIARY,

Petitioner,

-and-

Docket No. SN-2004-1

PROBATION ASSOCIATION OF NEW JERSEY  
(Professional Case-Related Unit),

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the New Jersey Judiciary's motion for reconsideration of P.E.R.C. No. 2004-28. In that decision, we held that a Judiciary employee represented by the Probation Association of New Jersey (PANJ) could not challenge a denial of Sick Leave Injury (SLI) benefits through binding arbitration. However, we permitted arbitration over a claim that the employer violated an alleged contractual obligation to notify the employee of her SLI appeal rights. The employer argues that Department of Personnel regulations govern procedural notice requirements and any alleged deviation can only be challenged in an appeal now pending before the Merit System Board. The Commission concludes that the motion is untimely and also that there are no extraordinary circumstances warranting reconsideration.

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. 2004-42

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY STATE JUDICIARY,

Petitioner,

-and-

Docket No. SN-2004-1

PROBATION ASSOCIATION OF NEW JERSEY  
(Professional Case-Related Unit),

Respondent.

Appearances:

For the Petitioner, Peter C. Harvey, Attorney General  
(Karen M. Selby, Deputy Attorney General, on the brief)

For the Respondent, Fox and Fox, LLP, attorneys  
(Dena E. Epstein, on the brief)

DECISION

On December 9, 2003, the New Jersey Judiciary moved for reconsideration of P.E.R.C. No. 2004-28, 29 NJPER 503 (¶159 2003) and for a stay of arbitration pending consideration of that motion. In P.E.R.C. No. 2004-28, we held that a Judiciary employee represented by the Probation Association of New Jersey (PANJ) could not challenge a denial of Sick Leave Injury (SLI) benefits through binding arbitration. However, we permitted arbitration over a claim that the employer violated an alleged contractual obligation to notify the employee of her SLI appeal rights. The employer argues that Department of Personnel regulations govern procedural notice requirements and any alleged

deviation can only be challenged in an appeal now pending before the Merit System Board.

On December 17, 2003, PANJ filed a response opposing reconsideration and a stay. It contends that no extraordinary circumstances warrant reconsideration of an argument already made in the initial proceeding. In addition, PANJ asserts that the motion is untimely.

On December 19, 2003, the request for a stay was denied.<sup>1/</sup>

Motions for reconsideration must be filed within 15 days of service of the Commission decision. The Commission decision was issued on November 18, 2003. Any motion for reconsideration had to be filed by December 8.<sup>2/</sup> Thus, this motion, filed on December 9, is untimely.

Moreover, reconsideration will be granted only in extraordinary circumstances not present here. See N.J.A.C. 19:13-3.11; 19:14-8.4. The employer made the same argument in the initial proceeding. As we stated there, nothing in the DOP regulations precludes arbitration of the notice claim. Unlike the challenge to the denial of SLI benefits, DOP regulations do not specify an exclusive appeal procedure for an alleged notice

---

<sup>1/</sup> On January 9, 2004, the employer filed a supplemental submission. On January 20, PANJ responded.

<sup>2/</sup> Pursuant to N.J.A.C. 19:10-2.1, three days for mailing are added to the 15 day period and the period for filing cannot end on a Saturday or Sunday.

violation. That the contract allegedly provides a right identical to a right under DOP regulations does not render the subject non-negotiable or unenforceable through binding arbitration. See Local 195, IFPTE v. State, 88 N.J. 393, 416 (1982).

ORDER

The motion for reconsideration is denied.

BY ORDER OF THE COMMISSION

A handwritten signature in black ink, appearing to read "L Henderson", written over a horizontal line.

Lawrence Henderson  
Chairman

Chairman Henderson, Commissioners Buchanan, DiNardo and Sandman voted in favor of this decision. None opposed. Commissioner Mastriani abstained from consideration. Commissioner Katz was not present.

DATED: January 29, 2004  
Trenton, New Jersey  
ISSUED: January 29, 2004