P.E.R.C. NO. 2004-67

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF BERNARDSVILLE,

Petitioner,

-and-

Docket No. SN-2004-57

P.B.A. LOCAL NO. 365,

Respondent.

SYNOPSIS

The Public Employment Relations Commission dismisses a scope of negotiations petition filed by the Borough of Bernardsville. The Borough seeks a negotiability determination concerning a police chief's directive which requires officers represented by P.B.A. Local No. 365 to report for duty before any assigned training and to return to their assigned duties if the training ends before the end of the officer's regular shift. The PBA filed an unfair practice charge challenging the directive. In the absence of a demand for arbitration, or a dispute which has arisen during the course of successor contract negotiations, the Commission declines to exercise its scope of negotiations jurisdiction. The parties may address the scope of negotiations issue in the unfair practice proceeding.

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, Schwartz, Simon, Edelstein, Celso & Kessler, LLP (Stefani C. Schwartz, of counsel)

For the Respondent, Loccke & Correia, P.A. (Michael A. Bukosky, of counsel)

DECISION

On February 20, 2004, P.B.A. Local No. 365 filed an unfair practice charge against the Borough of Bernardsville. The charge alleges that the Borough violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., when the police chief issued a directive altering a long-standing past practice involving release time and compensatory time before and after training.

On March 26, 2004, the Borough petitioned for a scope of negotiations determination. The Borough seeks a negotiability determination concerning the police chief's directive. There is

no demand to arbitrate any grievance concerning the directive and the parties are not in negotiations for a successor agreement.

On March 31, 2004, the Commission Chairman advised the employer that the Commission will not ordinarily decide a scope of negotiations petition unless a negotiability dispute has arisen during the course of negotiations for a successor agreement or a demand for arbitration has been filed and the petitioner is seeking to restrain binding arbitration of a grievance. See N.J.A.C. 19:13-2.2(a)(4).

On April 5, 2004, the Borough responded that the PBA's unfair practice charge questions the Borough's ability to unilaterally require employees to report to their assigned duties before and after a training session. On April 16, the PBA requested that the Commission decline to entertain this petition.

We decline to exercise our scope of negotiations jurisdiction in this proceeding. Any scope of negotiations issue can be addressed in the unfair practice proceeding based on a full record. See City of Cape May, P.E.R.C. No. 2004-22, 29 NJPER 483 (¶151 2003).

ORDER

The scope of negotiations petition is dismissed.

BY ORDER OF THE COMMISSION

Lawrence Henderson
Chairman

Chairman Henderson, Commissioners Buchanan, DiNardo, Katz, Mastriani and Sandman voted in favor of this decision. None opposed.

DATED: April 29, 2004
Trenton, New Jersey
ISSUED: April 30, 2004