

P.E.R.C. NO. 2005-47

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RUTGERS, THE STATE UNIVERSITY,

Respondent,

-and-

Docket No. CO-1994-158

THOMAS FIGUEIRA,

Charging Party-Intervenor.

SYNOPSIS

The Public Employment Relations Commission denies the request of Thomas Figueira for special permission to appeal a hearing examiner's decision denying a motion to reconsider his decision not to compel discovery of certain documents. The Commission finds the request untimely under N.J.A.C. 19:14-4.6(b). The Commission also finds that the motion involves issues of discovery and evidentiary relevance that were ruled upon by the Hearing Examiner and over which the Commission will not intrude mid-hearing absent extraordinary circumstances not present here.

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 Respondent, McElroy, Deutsch, Mulvaney &
Carpenter, LLP (John J. Peirano, of counsel)

For the Charging Party-Intervenor (Thomas Figueira, pro
se)

DECISION

On December 24, 2004, Thomas Figueira notified us that he intended to appeal a hearing examiner's decision on December 15 denying a motion to reconsider his decision on November 8 not to compel discovery of certain documents. On December 27, Figueira filed that request for special permission to appeal.

On December 31, 2004, the respondent filed a letter in opposition to the appeal. The respondent argued that the request is untimely and that any dispute over the Hearing Examiner's evidentiary rulings should await the conclusion of the hearing.

On January 10, 2005, Figueira asked that we relax our rules, in part because he is appearing pro se.

Requests for special permission to appeal must be filed within five days from the service of a hearing examiner's ruling. N.J.A.C. 19:14-4.6(b). The Hearing Examiner hand delivered his ruling on December 15. Even Figueira's notice of intent to appeal that ruling was filed more than five days after the ruling. More importantly, the motion involves issues of discovery and evidentiary relevance that were ruled upon by the Hearing Examiner and over which we will not intrude mid-hearing absent extraordinary circumstances not present here. At the conclusion of the hearing, any party may file exceptions to the Hearing Examiner's recommendations and we will consider the case as a whole, including any disputed discovery or evidentiary rulings.

ORDER

The request for special permission to appeal is denied.

BY ORDER OF THE COMMISSION

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

Lawrence Henderson
Chairman

Chairman Henderson, Commissioners Buchanan, Fuller, Mastriani and Watkins voted in favor of this decision. Commissioners DiNardo and Katz were not present. None opposed.

DATED: January 27, 2005
Trenton, New Jersey
ISSUED: January 27, 2005