

P.E.R.C. NO. 2006-10

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF MILLBURN,

Petitioner,

-and-

Docket No. SN-2005-085

SEIU LOCAL 74,

Respondent.

SYNOPSIS

The Chairman of the Public Employment Relations Commission, pursuant to authority delegated by the full Commission, grants the request of the Township of Millburn for a restraint of binding arbitration sought by SEIU Local 74. Local 74 seeks to arbitrate a laborer's termination. The Township is a civil service jurisdiction. The Chairman restrains arbitration because appeals of major disciplinary actions including terminations in local civil service jurisdictions must be made to the Merit System Board, formerly the Civil Service Commission.

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, Ruderman & Glickman, P.C.,
attorneys (Mark S. Ruderman, on the brief)

DECISION

On June 10, 2005, the Township of Millburn petitioned for a scope of negotiations determination. The Township seeks a restraint of binding arbitration sought by SEIU Local 74. Local 74 seeks to arbitrate a laborer's termination.

The Township has filed a brief and exhibits. Local 74 has not filed a brief. These facts appear.

The Township is a civil service community. Local 74 represents blue collar employees. The parties' collective negotiations agreement is effective from January 1, 2005 through December 31, 2007. The grievance procedure ends in binding arbitration.

Brian Carew was a laborer employed in the Township's public works department. He was terminated on November 3, 2004 for

failure to submit to a medical examination to obtain a required medical certificate. A disciplinary hearing was held on November 23 at which the parties agreed that Carew would be suspended without pay and given until December 31 to produce the required form. He did not do so. On April 14, 2005, the Township issued a Final Notice of Disciplinary Action terminating his employment.

On April 14, 2005, Local 74 demanded arbitration. This petition ensued.

The Township is a civil service jurisdiction. The Merit System Board, formerly the Civil Service Commission, reviews appeals of major disciplinary actions imposed in local civil service jurisdictions. N.J.S.A. 11A:2-14. Terminations are considered major discipline. N.J.S.A. 34:13A-5.3 provides that binding arbitration may not replace any alternate statutory appeal procedure. Thus, pursuant to authority delegated to me by the full Commission, I restrain arbitration over this termination. See, e.g., Borough of Roselle, P.E.R.C. No. 2003-12, 28 NJPER 347 (¶33123 2002); North Bergen Municipal Utilities Auth., P.E.R.C. No. 2001-34, 27 NJPER 39 (¶32020 2000).

ORDER

The Township's request for a restraint of binding arbitration over the termination of Brian Carew is granted.

BY ORDER OF THE COMMISSION

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

Lawrence Henderson
Chairman

DATED: September 12, 2005
Trenton, New Jersey

ISSUED: September 12, 2005