

P.E.R.C. NO. 2006-50

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF PATERSON,

Respondent,

-and-

Docket No. CO-2005-138

PATERSON POLICE PBA, LOCAL 1,

Charging Party.

CITY OF PATERSON,

Respondent,

-and-

Docket No. CO-2005-139

PATERSON POLICE PBA, LOCAL 1
SUPERIOR OFFICERS ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies a motion for summary judgment filed by the Paterson Police PBA Local 1 and Paterson Police PBA Local 1 Superior Officers Association and a cross-motion for summary judgment filed by the City of Paterson. The unions filed unfair practice charges alleging that the City violated the New Jersey Employer-Employee Relations Act when it installed surveillance cameras in work areas in the police station. The Commission holds that this is a case of first impression and that there are material facts in dispute. The Commission concludes that neither party is entitled to relief as a matter of law and the cases should proceed to a plenary hearing to develop a full record.

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, Dorf & Dorf, P.C. attorneys
(Christopher J. Vaz, of counsel)

For the Charging Parties, Mark C. Rushfield, attorney

DECISION

This case comes to us by way of cross-motions for summary judgment. On November 23, 2004, Paterson Police PBA, Local 1 and Paterson Police PBA, Local 1 Superior Officers Association filed unfair practice charges against the City of Paterson. The charges allege that the City violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically

5.4a(1) and (5),^{1/} when the City unilaterally installed surveillance cameras in work areas.^{2/}

On August 8, 2005, a Complaint and Notice of Hearing issued. On November 30, the charging parties filed their motion for summary judgment supported by a certification of the SOA's president. On December 2, the City filed its cross-motion supported by a certification of the police director. It contends that it had a managerial prerogative to install the cameras for security purposes to help protect employees and visitors to the public safety complex. On January 10, 2006, the Chairman referred the motions to the full Commission. N.J.A.C. 19:14-4.8.

The following are some of the material facts in this case based on the competing certifications.

The SOA president states that without notice to the unions, the City installed and activated video surveillance cameras in two police work areas: in the area of the police front desk

1/ These provisions prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act. (5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit. . . .

2/ On January 14, 2005, a Commission designee denied the charging parties' request for interim relief. I.R. No. 2005-5, 31 NJPER 2 (¶2 2005). Noting a lack of Commission precedent on this issue, he stated that an interim relief proceeding was not the place to resolve the negotiability of surveillance cameras for police.

facing the desk from the rear, and in the hallway on a lower level outside the police meeting/roll call room, facing into the hallway and time clock. The police front desk is a small lobby open to the public. According to the president, the lower hallway is open to police personnel only.

The police director states that depending on where an employee is standing or sitting when assigned to the front desk, the bottom portion of what the camera sees may show one or more employees, although typically the camera will reveal only the back or side of each employee's head or face. The director states that the public has access to the lower hallway area via unsecured elevators and that a shoe shine vendor is situated in that vicinity. The SOA president states that the public stairways and elevators do not lead into this hallway area and that access by the shoe shine vendor has been terminated.

The SOA president further states that evidence from the surveillance camera in the lower level area has been used to sustain disciplinary charges brought against eight superior officers who were recorded laughing at a cartoon that had been posted in that area. The director's certification does not address those charges.

The SOA president states that since the filing of the charges, the City has wired and placed approximately 33 additional surveillance cameras throughout the building. At

least 9 or 10 have allegedly been activated; a number focusing on the hallways in which police personnel work. The director states that in the near future, he intends to add more security cameras to the interior and exterior of the public safety complex and when that installation is completed, personnel will be assigned to observe all of the monitors as part of their regular duties.

Summary judgment will be granted if there are no material facts in dispute and the movant is entitled to relief as a matter of law. N.J.A.C. 19:14-4.8(d); Brill v. Guardian Life Ins. Co. of America, 142 N.J. 520, 540 (1995); Judson v. Peoples Bank & Trust Co., 17 N.J. 67, 73-75 (1954). This is an issue of first impression and there are material facts in dispute. We have not previously addressed whether an employer can engage in video surveillance of public or non-public work areas and we cannot determine based on the competing certifications whether the lower level camera is in a public area. We also have very little information about any discipline sustained using the video cameras or the extent of the installation of the additional cameras. Under all these circumstances, we conclude that neither party is entitled to relief as a matter of law and that this matter should proceed to a plenary hearing to develop a full record.

ORDER

The cross-motions for summary judgment are denied.

BY ORDER OF THE COMMISSION

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

ISSUED: January 26, 2006

Trenton, New Jersey