

P.E.R.C. NO. 2006-83

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF JERSEY CITY,

Respondent,

-and-

Docket No. CO-2005-128

JERSEY CITY POBA,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies the City of Jersey City's motion for reconsideration of P.E.R.C. No. 2006-66. In that decision, the Commission denied a motion for summary judgment the City filed and a cross-motion for summary judgment the Jersey City POBA filed. The POBA's underlying unfair practice charge alleges that the City violated the New Jersey Employer-Employee Relations Act when it paid police recruits an hourly rate rather than a rate that correlates with the salary guide in the parties' agreement, allegedly in violation of a settlement agreement. The Commission finds no extraordinary circumstances warranting reconsideration. All of the City's arguments can be addressed after a hearing has been held and competing factual contentions have been answered.

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, Schwartz Simon Edelstein Celso & Kessler LLP, attorneys (Stefani C. Schwartz, on the brief)

For the Charging Party, Detzky & Hunter, LLC, attorneys (Stephen B. Hunter, on the brief)

DECISION

The City of Jersey City has moved for reconsideration of our decision in P.E.R.C. No. 2006-66, 32 NJPER 78 (¶39 2006). In that decision, we denied a motion for summary judgment the City filed and a cross-motion for summary judgment the Jersey City POBA filed. The POBA's underlying unfair practice charge alleges 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/}

^{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
(continued...)

when it paid police recruits an hourly rate rather than a rate that correlates with the salary guide in the parties' collective negotiations agreement, allegedly in violation of a grievance settlement agreement. The City's Answer asserts that the police recruits are not covered by the parties' contract.

In connection with the motion and cross-motion, the parties presented facts and arguments concerning the central issue of whether police recruits are covered by the POBA's contract. After thoroughly considering these submissions, we concluded that "final resolution of this dispute requires the consideration of competing evidence, a task that we cannot accomplish in reviewing cross-motions for summary judgment." Slip op. at 10.

A motion for reconsideration will not be granted absent extraordinary circumstances. N.J.A.C. 19:14-8.4. The City has not cited any extraordinary circumstances and we do not find that any such circumstances exist. All the City's arguments about the merits of this case can be addressed after a hearing has been held and the competing factual contentions have been answered. We also note that our decision simply stated that "the POBA has not proven at this juncture that the City acted in bad faith or repudiated the contract." Slip. op. at 9. We did not foreclose

1/ (...continued)
conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative."

the POBA from being able to establish such a claim at a hearing and thus did not hold that this case involved at most a mere breach of contract outside our jurisdiction.

ORDER

The motion for reconsideration is denied.

BY ORDER OF THE COMMISSION

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

DATED: May 25, 2006

Trenton, New Jersey