

P.E.R.C. NO. 2008-66

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF PARSIPPANY-TROY HILLS,

Respondent,

-and-

Docket Nos. CO-2008-096

CO-2008-100

PBA LOCALS 131 & 131A SOA,

Charging Parties.

SYNOPSIS

The Public Employment Relations Commission denies the Township of Parsippany-Troy Hills' motion for summary judgment and PBA Locals 131 & 131A SOA's cross-motion for summary judgment in the consolidated unfair practice proceeding initiated by the PBA locals. The unfair practice charges allege that the Township violated its obligation to negotiate in good faith when it unilaterally changed the method used to calculate payments for off-duty police employment. The Commission finds that there is a factual dispute over what the governing body knew or should have known about the Police Department's policies on off-duty employment that may be relevant to the ultimate legal question of whether the Township violated its obligation to negotiate in good faith when it unilaterally rescinded the Police Department policies. This case must proceed through the normal course of a plenary hearing where all factual disputes will be resolved.

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, Laufer, Knapp, Dalena, Trimboli & Cadicina, L.L.C., attorneys (Fredric M. Knapp, of counsel)

For the Charging Parties, Courter, Kobert & Cohen, attorneys (Howard A. Vex, of counsel)

DECISION

The Township of Parsippany-Troy Hills has moved for summary judgment in the consolidated unfair practice proceeding initiated by PBA Locals 131 & 131A SOA. The unions have cross-moved for summary judgment. The case involves unfair practice charges filed by the unions that allege that the Township violated its obligation to negotiate in good faith when it unilaterally changed the method used to calculate payments for off-duty police employment.^{1/} It is undisputed that the Township rescinded

1/ The charges alleged violations of 5.4a(1), (3) and (5). The Director of Unfair Practices issued a Consolidated Complaint on the 5.4a(1) and (5) allegations. Those provisions
(continued...)

policies of the Police Department setting certain conditions for officers performing off-duty traffic and security work. The Township argues that it had a right to do so because the Department policies went beyond the terms of its ordinance on off-duty employment.

Summary judgment will be granted:

If it appears from the pleadings, together with the briefs, affidavits and other documents filed, that there exists no genuine issue of material fact and that the movant or cross-movant is entitled to its requested relief as a matter of law. . . . [N.J.A.C. 19:14-4.8]

In its motion and supporting certifications, the Township asserts that no one within the Township administration was aware of the Police Department's written policies and past practice regarding off-duty employment. The unions characterize the Township's assertion as a "head in the sand" argument being made to avoid its long-standing and well-known contractual obligations. This factual dispute over what the governing body knew or should have known about the Police Department's policies on off-duty employment may be relevant to the ultimate legal

1/ (...continued)
prohibit 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" and "(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, or refusing to process grievances presented by the majority representative."

question of whether the Township violated its obligation to negotiate in good faith when it unilaterally rescinded the Police Department policies. See Bridgewater Tp., P.E.R.C. No. 2006-62, 32 NJPER 46 (¶24 2006), rev'd 33 NJPER 155 (¶55 App. Div. 2007) (unfair practice charge dismissed where court found that mayor did not have the authority to disregard relevant contract terms and grant non-contractual terminal leave). We are thus unable to grant summary judgment for either party and this case must proceed through the normal course of a plenary hearing where all factual disputes will be resolved.

ORDER

The motion and cross-motion for summary judgment are denied.

BY ORDER OF THE COMMISSION

Acting Chairman Joanis and Commissioners Buchanan, Fuller and Watkins voted in favor of this decision. None opposed. Chairman Henderson and Commissioner Branigan recused themselves.

ISSUED: June 26, 2008

Trenton, New Jersey