

P.E.R.C. NO. 2012-4

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF NORTH ARLINGTON,

Respondent,

-and-

Docket No. IA-2011-050

POLICE BENEVOLENT ASSOCIATION  
LOCAL 95,

Movant.

SYNOPSIS

The Public Employment Relations Commission denies PBA Local 95's motion for reconsideration of P.E.R.C. No. 2012-1, 37 NJPER \_\_\_\_\_ (¶\_\_\_\_\_ 2012). In that decision, the Commission vacated and remanded an interest arbitration award. The Commission holds that the PBA has not established extraordinary circumstances warranting reconsideration.

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, Pearce Law, LLC, attorneys (Randy T. Pearce, of counsel and on the brief)

For the Movant, Loccke, Correia, Limsky & Bukosky, attorneys (Leon B. Savetsky, of counsel)

DECISION

On July 19, 2011, we vacated an interest arbitration award and remanded the case to the interest arbitrator to issue a new award within 45 days after our decision. P.E.R.C. No. 2012-1, 37 NJPER \_\_\_\_\_ (¶ \_\_\_\_\_ 2012). On July 22, Police Benevolent Association Local 95 moved for reconsideration. On July 27, the Borough of North Arlington filed a response opposing the PBA's motion. We deny the motion as the PBA has not met the standards to warrant granting a motion for reconsideration.

The PBA asserts that in setting aside the award the Commission improperly relied on allegations that were not supported by certifications or affidavits. It also asserts that

the decision inappropriately characterized an exhibit entered into evidence at the arbitration hearing as "doctored." It claims that authenticating testimony concerning the exhibit was presented and was unchallenged.

The Borough responds that there is no provision addressing motions for reconsideration of Commission decisions reviewing arbitration awards while rules governing other proceedings within the Commission's jurisdiction, expressly permit motions for reconsideration.<sup>1/</sup> It contends that the PBA's application simply reiterates the arguments it made while the Commission was considering the Borough's appeal of the interest arbitration award. It points out that the PBA again does not refute the Borough's contention that the "cost-out" document placed into Exhibit P-34 is not part of the actual employment contract between the police chief and the Borough.

There is no rule governing motions for reconsideration of Commission decisions reviewing interest arbitration awards. But, Skulski v. Nolan, 68 N.J. 179, 195 (1975) holds:

Barring statutory regulation the power [of reconsideration] may be invoked by administrative agencies to serve the ends of essential justice and the policy of the law. But there must be reasonable diligence.

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<sup>1/</sup> The Borough cites, inter alia, N.J.A.C. 19:13-3.11 (scope of negotiations); N.J.A.C. 19:14-8.4 (unfair practice);

Because we remanded the case to the arbitrator to issue a new decision within 45 days, our decision was interlocutory, not final. Granting a motion for reconsideration would further delay interest arbitration proceedings that must be completed within strict, statutorily-mandated time limits.

Reconsideration will be granted in extraordinary circumstances and cases of exceptional importance. We rarely grant reconsideration where agency proceedings are ongoing and the decision is not yet a final agency ruling. Cf. City of Passaic, P.E.R.C. No. 2004-50, 30 NJPER 67 (¶21 2004).

The PBA's application presents only arguments and assertions that were raised when we ruled on the Borough's appeal.<sup>2/</sup> It does not meet the standards required for reconsideration.

ORDER

The PBA's motion for reconsideration is denied.

BY ORDER OF THE COMMISSION

Chair Hatfield, Commissioners Bonanni, Eskilson, Krengel and Voos voted in favor of this decision. None opposed. Commissioners Jones and Wall recused themselves.

ISSUED: August 11, 2011

Trenton, New Jersey

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<sup>2/</sup> The PBA asserts that "The exhibit was presented through a witness who testified and identified it..." That statement presumably refers to P-34, which included the disputed "cost-out" document. But it does not say that its witness separately identified, and presented testimony about, the "cost-out" document.