

P.E.R.C. NO. 2012-44

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF BLOOMFIELD,

Respondent,

-and-

Docket No. IA-2008-002

FMBA LOCAL 19,

Appellant.

SYNOPSIS

The Public Employment Relations Commission dismisses an interest arbitration appeal filed by FMBA Local 19 from a one-issue clarification of an interest arbitration award that determined acting pay for captains employed by the Township of Bloomfield. The Commission determines that the appeal is untimely.

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, The Law Office of Brian J. Aloia LLC, attorneys (Brian J. Aloia, of counsel)

For the Appellant, Fox and Fox LLP, attorneys (David I. Fox, of counsel)

DECISION

On May 31, 2009, an interest arbitrator issued an award addressing a single disputed issue regarding acting pay for firefighters who serve in the higher rank of captain. All other issues in dispute between the Township of Bloomfield and FMBA Local 19 were resolved prior to the close of the record. Neither party appealed the award at that time.

After receipt of the award, the parties' eventually had a disagreement about the effective date of the award. They jointly sought clarification from the arbitrator as to the effective date to determine how much retroactivity was due to firefighters who served as captains between March 17, 2008 through May 31, 2009.

On January 14, 2012, the arbitrator served his clarification of award on the Commission. On January 14, the FMBA filed an appeal asserting the arbitrator: violated Commission standards of review in his clarification decision; failed to appropriately consider the relevant factors implicated in the award; and violated the standards set forth in N.J.S.A. 2A:24-8.

The Township replies that the clarification of award must be affirmed because the record clearly shows that the arbitrator provided a detailed analysis of the relevant factors; the arbitrator appropriately executed his statutory powers and issued a mutual, final and definite award; and the Commission must disregard the FMBA's reference to a settlement of an unfair practice charge to support its position.

On February 13, 2012, the parties were requested to file an additional brief addressing whether the submission of the FMBA constitutes an appeal of an interest arbitration award and if so, whether it is timely. On February 15 and 16, the parties filed their responses. We dismiss the appeal.

We have previously dismissed interest arbitration appeals filed by parties as they relate to an arbitrator's clarification of an award. Township of Mount Olive, P.E.R.C. No. 2011-21, 36 NJPER 349 (¶134 2010) (interest arbitration appeal dismissed where arbitrator issued a clarification of parties' voluntary settlement); Borough of Fort Lee, P.E.R.C. No. 2011-87, 38 NJPER

67 (¶12 2011) app. pending, (appeal of arbitrator's clarification of language dismissed post-award). We also find that this appeal does not meet our filing requirements. N.J.A.C. 19:16-8.1. If there is a dispute as to the interpretation of an arbitrator's award, a party must appeal to the Commission in the first instance to seek clarification or the appellant is deemed to have waived that appeal right. See Hudson Cty., P.E.R.C. No. 2012-37 — NJPER — (¶ 2012) (award remanded to arbitrator for clarification of salary guide calculations).

ORDER

FMBA Local 19's appeal is dismissed.

BY ORDER OF THE COMMISSION

Chair Hatfield, Commissioners Bonanni, Eskilson, Krengel, Voos and Wall voted in favor of this decision. Commissioner Jones voted against this decision.

ISSUED: February 29, 2012

Trenton, New Jersey