

P.E.R.C. NO. 2013-59

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NORTH HUDSON REGIONAL
FIRE AND RESCUE,

Appellant/Respondent,

-and-

Docket No. IA-2010-099

NORTH HUDSON FIREFIGHTERS
ASSOCIATION,

Appellant/Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the North Hudson Firefighters Association's motion for reconsideration of a decision by the Commission Chair dismissing its appeal of a supplemental interest arbitration award. The Commission finds that the Association filed its appeal outside the seven-day time frame required by N.J.S.A. 34:13A-16f(5)a. The Commission holds that the Association has not established unusual circumstances or good cause under N.J.A.C. 19:10-3.1(a) to justify relaxing the statutory appeal deadline.

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 North Hudson Regional Fire and Rescue, Scarinci & Hollenbeck, LLC (Ramon E. Rivera, of counsel and on the brief; Christina Michelson, on the brief)

For North Hudson Firefighters Association, Cohen, Leder, Montalbano & Grossman, LLC (Bruce D. Leder, of counsel)

DECISION

On November 26, 2012, the North Hudson Firefighters Association filed a motion for reconsideration of the dismissal of its appeal of a supplemental interest arbitration award. The supplemental interest arbitration award was received by the parties on November 5, 2012. Parties have seven days to file an appeal of an interest arbitration award. N.J.S.A. 34:13A-16f (5)a.^{1/} Therefore, any appeal had to be filed by November 13.

1/ Moreover, the Commission's order in the decision remanding the award to the arbitrator for clarification and the issuance of a supplemental award advised that any appeal
(continued...)

The Association did not file its appeal until November 16. The Association argues that when computing the time period for appeal, intervening Saturdays, Sundays and holidays should not be included. However, N.J.A.C. 19:10-2.1(a) only allows for the exclusion of Saturdays, Sundays and legal holidays when the period of time prescribed is less than seven days.

Alternatively, the Association relies on N.J.A.C. 19:10-3.1(a) which provides that "when unusual circumstances or good cause exists and strict compliance with the terms of these rules will work an injustice or unfairness", we may construe the rules liberally. The Association first argues that there was a disruption of services at its attorney's office due to Hurricane Sandy, but provides no particularized circumstances regarding this assertion.^{2/} The Association also argues that the arbitrator made errors in calculating base salary in the supplemental award.^{3/} Neither assertion rises to the level of unusual circumstances or good cause envisioned by N.J.A.C. 19:10-

1/ (...continued)
must be made within seven days from receipt of the supplemental award.

2/ We note that the Association's attorney could have called prior to the appeal deadline and requested an extension of time due to any compelling circumstances resulting from Hurricane Sandy.

3/ We note that one of the grounds for remand of the initial Award was for the arbitrator to provide clarification on base salary figures due to the Association's assertion that it was calculated in error.

3.1(a). Moreover, the time frame for appeals of interest arbitration awards is set by the Legislature and is statutory, not regulatory. Only in the most exceptional and extraordinary of circumstances might we have the authority to relax the requirement that interest arbitration appeals must be filed within seven days. Surf City, P.E.R.C. No. 2004-80, 30 NJPER 214 (¶81 2004). The Association's motion for reconsideration is denied.

ORDER

The North Hudson Firefighters Association's motion for reconsideration of the dismissal of its appeal of a supplemental interest arbitration award is denied.

BY ORDER OF THIS COMMISSION

Chair Hatfield, Commissioners Bonanni, Boudreau, Eskilson and Wall voted in favor of this decision. Commissioner Jones voted against this decision. Commissioner Voos abstained from consideration.

ISSUED: February 28, 2013

Trenton, New Jersey