

P.E.R.C. NO. 2013-76

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF CAMDEN & COUNTY OF  
CAMDEN SHERIFF'S OFFICE,

Respondent,

-and-

Docket No. CO-2012-296

CAMDEN COUNTY SHERIFF'S  
OFFICERS PBA LOCAL 277 &  
SUPERIOR OFFICERS ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies the Camden County Sheriff's Officers PBA Local 277 and Superior Officers Association's motion for reconsideration of a Commission designee's denial of an application for interim relief (I.R. No. 2012-018) submitted with an unfair practice charge against the County of Camden and County of Camden Sheriff's Office. The Commission agrees with the designee that the PBA and SOA did not establish a substantial likelihood of prevailing in a final Commission decision.

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, Sherri L. Schweitzer, County  
Counsel

For the Charging Party, Loccke, Correia, Limsky &  
Bukosky, attorneys (Marcia J. Tapia, of counsel)

DECISION

Camden County Sheriff's Officers PBA Local 277 and Superior Officers Association seek reconsideration of I.R. No. 2012-018, 39 NJPER 331 (¶114 2012). In that decision, a Commission designee denied an application for interim relief submitted by the PBA and SOA with an unfair practice charge it filed against the County of Camden and County of Camden Sheriff's Office. We deny the PBA and SOA's motion for reconsideration.

The unfair practice charge filed by the PBA and SOA on April 25, 2012 alleges that the County violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq.,

specifically 5.4a(1), (2), (3), (4), (5), (6) and (7).<sup>1/</sup> when it refused to sign a successor agreement which retained language describing the prior level of health benefits after the issuance of an interest arbitration award in which the County's proposal for a modified level of health benefits was awarded.<sup>2/</sup>

We incorporate the facts as found by the designee. The Award was issued on June 10, 2011 with a term of January 1, 2008 through December 31, 2012. It specifically stated that "the County's proposed insurance article shall replace Articles XII and XXV in the 2003-2003 contracts." We add to the facts that the County's insurance proposal contained a modified level of

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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. (2) Dominating or interfering with the formation, existence or administration of any employee organization. (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this act. (4) Discharging or otherwise discriminating against any employee because he has signed or filed an affidavit, petition or complaint or given any information or testimony under this act. (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. (6) Refusing to reduce a negotiated agreement to writing and to sign such agreement. (7) Violating any of the rules and regulations established by the commission."

2/ On February 23, 2012, the County filed an unfair practice charge against the PBA and SOA on this same issue. CE-2012-010. The matter is currently being held in abeyance at the request of the parties.

benefits that included the elimination of the Traditional/Indemnity plan, increased prescription co-payments and premium contributions, and explicit provisions for retiree health benefits depending on date of retirement, age at retirement, and time served with the County, State and/or local public employer. Three sections of the County's insurance proposal are effective upon the signing of the Agreement, two sections are effective January 1, 2011, and the remainder of the sections are silent with regard to implementation.<sup>3/</sup>

After the Award issued and the parties were in the process of reducing the Award to writing, a dispute arose over the health care provisions. The PBA and SOA asserted that the language describing the prior level of health insurance coverage must be retained in the agreement for purposes of clarity for those employees and/or retirees who may assert rights under the prior level of coverage. The County disagreed. Between July 2011 and April 2012, the parties exchanged various correspondence including numerous versions of draft agreements over this dispute. In May 2012, the County implemented the new health care insurance provisions. The successor agreement remains unsigned.

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<sup>3/</sup> The arbitrator also awarded wage increases ranging from 1.0% to 2.8%. The County asserts that shortly after the Award issued it paid the retroactive wage increases covering 2008, 2009 and 2010 and part of 2011.

To obtain interim relief, the moving party must demonstrate both that it has a substantial likelihood of prevailing in a final Commission decision on its legal and factual allegations and that irreparable harm will occur if the requested relief is not granted. Further, the public interest must not be injured by an interim relief order and the relative hardship to the parties in granting or denying relief must be considered. Crowe v. DeGioia, 90 N.J. 126, 132-134 (1982); Whitmyer Bros., Inc. v. Doyle, 58 N.J. 25, 35 (1971). Finding that the PBA and the SOA had not established a substantial likelihood of success, the designee denied the PBA and SOA's application for interim relief.

The PBA and SOA assert that the designee ignored the clear and unambiguous language of the Award which provided that several sections of the County's health insurance proposal would not be effective until the signing of the Agreement. They contend that failure to retain the language describing the prior level of health insurance benefits creates a "temporal gap" for those employees and/or retirees who may assert rights and benefits under the prior level of coverage. The County responds that the PBA and SOA's failure to sign the agreement undermines the arbitrator's intent to have the County's costs from the wage increases offset by the savings it would achieve through implementation of the new health care provisions.

Reconsideration will be granted in extraordinary circumstances, but only in cases of exceptional importance will we intrude into the regular interim relief process by granting a motion for reconsideration of an interim relief decision by the full Commission. City of Passaic, P.E.R.C. No 2004-50, 30 NJPER 67 (¶21 2004); N.J.A.C. 19:14-8.4. We find that this case fails to meet the stringent standard of review for motions for reconsideration of interim relief decisions. We agree with the designee that the PBA and SOA did not establish a substantial likelihood of success in a final Commission decision.<sup>4/</sup> Additionally, we find that they fail to meet any of the requisite elements for interim relief. The "temporal gap" identified by the PBA and SOA that was created by the issuance of an interest arbitration award which dates retroactively to an earlier date is a common occurrence in interest arbitration. The existence of the temporal gap does not necessitate the inclusion of the prior health care coverage contract language in the new contract. The language of the prior contract could be referenced for employees and/or retirees who may file grievances asserting rights and

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<sup>4/</sup> However, we note that we part with some of the designee's analysis. His finding that "[t]he fact that the insurance proposal used the term "effective upon the signing of this agreement," is without merit. . . ." is inaccurate. I.R. 2012-018 at 8. Rather, we find that designating a portion of the Award effective only upon the actual signing of the agreement incorporating the Award is contrary to N.J.S.A. 34:13A-16f(5)(b) which requires that an interest arbitrator's award be implemented immediately.

benefits arising under the prior contract. Voorhees Tp. and Voorhees Police Officers Assn, Voorhees Sgts Assn. and Sr Officers Assn. of FOP Lodge 56 and FOP, NJ Labor Counsel,

P.E.R.C. No. 2012-13, 38 NJPER 155 (¶44 2011), aff'd 39 NJPER 69 (¶27 2012). The underlying unfair practice charge will continue to be processed by the Director of Unfair Practices. The parties should avail themselves of the mediation services offered to avoid further unnecessary litigation.<sup>5/</sup>

ORDER

The Camden County Sheriff's Officers PBA Local 277 and Superior Officers Association's motion for reconsideration is denied and the unfair practice charge is referred to the Director of Unfair Practices for further processing.

BY ORDER OF THE COMMISSION

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

ISSUED: April 25, 2013

Trenton, New Jersey

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<sup>5/</sup> For purposes of economy and efficiency, this matter should be consolidated with CE-2012-010.