

P.E.R.C. NO. 2014-20

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

EMMA ALPARONE, LISA KERR,  
SHERRY KERR, RICHARD KOLTON,  
STEVEN KOVACS, KATHERINE LAZZARA,  
BARBARA MANN, AMYE PAIGE MCGAHERN,  
EVELYN MICKEL, CARLA NOWELL,  
JUDY ROGERS, BETTY SUTTON,  
KIM ERZUOLO, JEFFREY THOMPSON,  
GERALD TOLOMEO AND PATRICIA TUMA,

OAL DKT. NO. EDU 12183-08  
AGENCY DKT. NO. 334-11/08

Petitioners,

v.

HIGH BRIDGE BOROUGH BOARD OF  
EDUCATION, HUNTERDON COUNTY,

Respondent.

-and-

HIGH BRIDGE TEACHERS ASSOCIATION,

Petitioner,

v.

PERC DKT. NO. CO-2009-190

HIGH BRIDGE BOROUGH BOARD OF  
EDUCATION, HUNTERDON COUNTY.

Respondent.

SYNOPSIS

The Chair of the Public Employment Relations Commission issues a decision in the absence of exceptions affirming the decision of an Administrative Law Judge.

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 Respondent High Bridge Board of  
Education, Marshall Dennehy, Warner, Coleman  
& Coggin, attorneys (Howard B. Mankoff, of  
counsel) and Schwartz, Simon, Edelstein,  
Celso & Kessler, attorneys (Nicholas Celso,  
III, of counsel)

For Petitioners, Emma Alparone, Lisa Kerr, Sherry Kerr, Richard Kolton, Steven Kovacs, Katherine Lazzara, Barbara Mann, Amye Paige McGaheran, Evelyn Mickel, Carla Nowell, Judy Rodgers, Betty Sutton, Kim Erzuolo, Jeffrey Thompson, Gerald Tolomeo and Patricia Tuma, Selikoff & Cohen, attorneys (Keith Waldman, of counsel)

For Charging Party, High Bridge Teachers Association, Detzky & Hunter, attorneys (Stephen B. Hunter, of counsel)

DECISION

On November 7, 2008, Emma Alparone, Lisa Kerr, Sherry Kerr, Richard Kolton, Steven Kovacs, Katherine Lazzara, Barbara Mann, Amye Paige McGaheran, Evelyn Mickel, Carla Nowell, Judy Rodgers, Betty Sutton, Kim Erzuolo, Jeffrey Thompson, Gerald Tolomeo and Patricia Tuma filed petitions with the Commissioner of Education (Commissioner) appealing the determination of Respondent High Bridge Board of Education, Hunterdon County, to recoup funds allegedly erroneously paid to them under their contracts from 2002-2005 and 2005-2008 by freezing their salaries and withholding increments and other benefits.

On November 24, 2008, the High Bridge Teachers Association filed an unfair practice charge with the Public Employment Relations Commission (PERC) alleging that the Board violated the New Jersey Employer-Employee Relations Act, specifically N.J.S.A. 34:13A-5.4a(1)&(5)<sup>1/</sup>, when it recouped funds in violation of the

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<sup>1/</sup> These provisions prohibit public employers, their  
(continued...)

parties' collective negotiations agreement and without prior negotiations. The charge further alleges the Board refused to provide information to the Association to verify the accuracy of the Board's claim.

On June 19, and June 21, 2012, respectively, the Chair of PERC and the Commissioner, issued a joint order determining that PERC had the predominant interest in the case. High Bridge Bd. of Ed., P.E.R.C. No. 2012-67, 39 NJPER 36 (¶11 2012). On December 17, the Board filed a motion for summary decision based on the Board having already collected the amounts allegedly paid in error and for the determination of any remaining overpayments or underpayments. On December 21, the Association filed a motion for summary decision based on the failure of the Board to negotiate in good faith a mechanism for recoupment of any overpayment.

On June 27, 2013, the ALJ issued an initial decision denying the Association's motion for summary decision and granting the Board's motion for summary decision. The ALJ ordered the Board to reimburse petitioner's (excluding Kerr, Nowell, and Sutton)

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1/ (...continued)  
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."

for any overpayments withheld in excess of the amounts due. The ALJ further ordered the Board to provide within 30 days a summary of all payroll deductions for Kerr, Nowell, and Sutton since June 30, 2012 so that the amount of their outstanding debt or overpayment may be fixed. Neither party filed exceptions to the ALJ's initial decision.

Pursuant to authority granted to me by the full Commission in the absence of exceptions, I have reviewed the record and adopt and incorporate the ALJ's findings of fact and his legal conclusion that the Authority did not violate the Act. Accordingly, I dismiss the Complaint.

Pursuant to the Joint Order, I transfer the remaining aspects of the case to the Department of Education.

ORDER

The Complaint is dismissed. The remaining aspects of the case are transferred to the Department of Education.

P. Kelly Hatfield  
Chair

ISSUED: October 2, 2013

Trenton, New Jersey