

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WILLINGBORO BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-80-18

WILLINGBORO EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

In a scope of negotiations determination the Commission, in agreement with and for the reasons stated by the Special Assistant to the Chairman in an Interlocutory Decision, concludes that the granting or denial of sabbatical leaves is a required subject for collective negotiations. The Board argued that the determination as to whether individuals were qualified for sabbatical leaves related to a non-negotiable managerial prerogative. The Association cited judicial and Commission precedent for the proposition that sabbatical leave is a term and condition of employment. The Commission denied the request of the Board for a permanent restraint of arbitration.

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Appearances:

For the Petitioner, Barbour & Costa, Esqs.
(Mr. John T. Barbour, of Counsel)

For the Respondent, Joel S. Selikoff, Esq.
(Mr. Steven R. Cohen, of Counsel)

DECISION AND ORDER

On September 14, 1979 the Willingboro Board of Education (the "Board") filed a Petition for Scope of Negotiations Determination with the Public Employment Relations Commission seeking a determination as to whether certain matters in dispute between the Board and the Willingboro Education Association (the "Association") were within the scope of collective negotiations.

The Board indicated in its scope petition that the instant dispute had arisen with respect to certain matters which the Association had sought to process pursuant to a negotiated grievance procedure and concerning which the Association has invoked arbitration pursuant to that grievance procedure. More specifically, three individual teachers, Maureen Stonnar, Claire Cohen and Kurt Jarvis, were attempting to pursue to binding arbitration the

denial by the Board of sabbatical leaves requested by them. The Board maintained that the specific grievances concerned the issue of who should determine the qualifications of the respective applicants for sabbatical leaves and thus related specifically to the criteria for receipt of a sabbatical leave, including the needs of the district. The Board asserted that the determination that the individual grievants were not qualified for sabbatical leaves related to a managerial prerogative and was thus non-negotiable and nonarbitrable. The Association argued that the subject of sabbatical leaves was a well established term and condition of employment as enunciated by judicial and Commission decisions. The Association urged that these matters therefore be permitted to proceed to arbitration in accordance with the parties' contract.

The Board requested that the Commission grant interim relief in the form of an Order Temporarily Restraining Arbitration proceedings concerning the issues in dispute during the pendency of this scope of negotiations proceeding. In a written decision the Special Assistant to the Chairman, Stephen B. Hunter, denied the Board's request for interim relief in the form of a temporary restraint of arbitration.^{1/} The Special Assistant concluded,

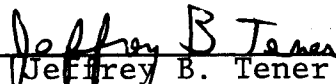
1/ In re Willingboro Board of Education, P.E.R.C. No. 80-46, 5 NJPER 475 (¶10240 1979). The Commission has delegated to the Special Assistant the authority to conduct Show Cause proceedings on requests for interim relief and to issue interlocutory determinations on behalf of the Commission. These interlocutory decisions constitute a determination as to whether the facts of a particular case warrant the exercise of the discretion which the Commission possesses to restrain arbitration in appropriate circumstances. A copy of this Interlocutory Decision is attached and made a part hereof.

consistent with pertinent Commission and judicial decisions, that the issue of the granting or denial of sabbatical leaves was a mandatory subject for collective negotiations.^{2/} He therefore determined that disputes concerning these issues could proceed to arbitration, if otherwise arbitrable under the parties' agreement.

Following the Special Assistant's determination, the parties were given an opportunity to file supplemental briefs. The Board did file a supplemental brief dated November 19, 1979.

After careful consideration of the parties' submissions in this matter and the Special Assistant's Interlocutory Decision, we conclude that the subject matter in dispute, i.e., the granting or denial of sabbatical leaves, is a required subject for collective negotiations, substantially for the reasons stated by the Special Assistant to the Chairman in his Interlocutory Decision and we hereby adopt that decision as our own. The dispute between the parties may proceed to arbitration, if otherwise arbitrable under the terms of their collective negotiations agreement. Therefore, the request of the Board for a permanent restraint of arbitration must be and is hereby denied.

BY ORDER OF THE COMMISSION


 Jeffrey B. Tener
 Chairman

Chairman Tener, Commissioners Graves, Hartnett and Parcels voted for this decision. None opposed. Commissioners Hipp and Newbaker abstained.

DATED: December 4, 1979
 Trenton, New Jersey
 ISSUED: December 5, 1979

^{2/} See e.g. South Orange-Maplewood Ed. Ass'n v. Board of Ed. of So. Orange, 146 N.J. Super. 457 (1977), In re Cliffside Park Bd. of Ed., P.E.R.C. No. 77-2, 2 NJPER 252 (1976) and In re Belvidere Board of Education, P.E.R.C. No. 78-5, 3 NJPER 226 (1977).