

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TEANECK BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-77-38

TEANECK TEACHERS' ASSOCIATION,

Respondent.

SYNOPSIS

In a scope of negotiations proceeding initiated by the Board of Education, the Commission rules that a contractual provision that would provide that employees are entitled to a maximum of 180 working days of extended sick leave during any two calendar year, to be applied when a teacher's accumulated sick leave days have been exhausted was an illegal subject for collective negotiations.

A similar provision was determined to be an illegal subject in a recent Commission decision, In re Rockaway Township Education Association, P.E.R.C. No. 78-12, 3 NJPER \_\_\_\_\_ (1977). In this decision the Commission determined that a blanket benefit of additional sick leave was an illegal subject due to N.J.S.A. 18A:30-6 which allows a board of education to grant additional sick leave beyond what has been accumulated on a case by case consideration of the merits of each request. The Commission interpreted the amendments to N.J.S.A. 34:13A-8.1 as not being a repealer of any non-pension statute but rather as meaning that only statutes placing a specific limit on the authority of a public employer in regard to terms and conditions of employment may be a limitation on the duty created by the Act to negotiate on terms and conditions of employment. General statutory grants of authority may not be used to avoid that duty to negotiate. The Commission concluded that under the above rationale, there was no question that N.J.S.A. 18A:30-6 represented a specific statutory limitation that had to be observed under Chapter 123. In the instant matter the Commission in part rejected the Association's argument that the benefit granted was not an extended sick leave benefit but merely a grant of annual sick leave that was consistent with the Board's authority to grant sick leave in excess of the 10 days minimum guaranteed by N.J.S.A. 18A:30-2.

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TEANECK BOARD OF EDUCATION,

Petitioner,

Docket No. SN-77-38

-and-

TEANECK TEACHERS' ASSOCIATION,

Respondent.

Appearances:

For the Petitioner, Gerald L. Dorf, P.A.  
(Mr. David A. Wallace, Of Counsel and on the Brief)

For the Respondent, Goldberg, Simon & Selikoff, Esqs.  
(Mr. Louis P. Bucceri, on the Brief)

DECISION AND ORDER

On May 31, 1977, the Teaneck Board of Education (the "Board") filed a Petition for Scope of Negotiations Determination with the Public Employment Relations Commission (the "Commission") seeking a determination as to whether a certain matter in dispute between the Board and the Teaneck Teachers' Association (the "Association") is within the scope of collective negotiations within the meaning of the New Jersey Employer-Employee Relations Act, as amended, N.J.S.A. 34:13A-1 et seq. (the "Act").

At issue is Article X of the parties' 1976-78 collective negotiations agreement, entitled "Sick Leave", which contains in Paragraph B extended sick leave benefits. These benefits entitle employees to a maximum of one hundred and eighty (180) working days of extended sick leave during any two calendar year period to be applied when a teacher's accumulated sick leave days have been

exhausted. Accumulation of unused sick leave is limited to not more than ten (10) days per year.

The Board's position is that the contractual provision at issue is inconsistent with N.J.S.A. 18A:30-6.<sup>1/</sup> It is argued that this statute specifically precludes a board of education from adopting a blanket provision for extended sick leave benefits. The Board further asserts that Article X of the contract between the Board and the Association provides for automatic benefits and calls for full pay without reference to a reduction equivalent to substitute's pay. Thus, it is argued that the sick leave benefits at issue constitute an illegal subject for collective negotiations. Several Commission decisions are cited in support of the Board's position.

The Association bases its case on two arguments. First, it contends that the instant dispute is not governed by N.J.S.A. 18A:30-6 but rather that the contract between the parties simply provides for sick leave in excess of the minimum provided by N.J.S.A. 18A:30-2<sup>2/</sup> and, therefore, that N.J.S.A.

<sup>1/</sup> N.J.S.A. 18A:30-6 states: "When absence, under the circumstances described in section 18A:30-1 of this article, exceeds the annual sick leave and the accumulated sick leave, the board of education may pay any such person each day's salary less the pay of a substitute, if a substitute is employed or the estimated cost of the employment of a substitute if none is employed, for such length of time as may be determined by the board of education in each individual case. A day's salary is defined as 1/200 of the annual salary."

<sup>2/</sup> N.J.S.A. 18A:30-2 states: "All persons holding any office, position or employment in all local school districts, regional school districts or county vocational schools of the state who are steadily employed by the board of education or who are protected by tenure in their office, position, or employment under the provisions

(Continued)

18A:30-7<sup>3/</sup> does give the Board the authority to grant sick leave over and above the statutory minimum. Secondly, the Association argues that this dispute relates to a mandatory subject of negotiations even if N.J.S.A. 18A:30-6 does apply by virtue of the amendments to the Act contained in Chapter 123, Public Laws of 1974.

We have previously considered and rejected the second of these arguments in In re Rockaway Township Board of Education, P.E.R.C. No. 78-12, 3 NJPER \_\_\_\_ (1977), relying upon Board of Education of the Township of Piscataway v. Piscataway Maintenance & Custodial Association, Docket No. A-1449-76 (App. Div., August 12, 1977), and see no reason to reverse the position taken at that time.

We also reject the first argument advanced by the Association. The Association claims that the contract gives teachers one hundred and eighty (180) sick leave days to be utilized over a two year period and that this grant of sick leave is consistent with the Board's authority to give sick leave in excess of the ten (10) days minimum guaranteed by N.J.S.A. 18A:30-2.

2/ (Continued) of this or any other law, except persons in the classified service of the civil service under Title 11, Civil Service, of the Revised Statutes, shall be allowed sick leave with full pay for a minimum of 10 school days in any school year."

3/ N.J.S.A. 18A:30-7 states: "Nothing in this chapter shall affect the right of the board of education to fix either by rule or by individual consideration, the payment of salary in cases of absence not constituting sick leave, or to grant sick leave over and above the minimum sick leave as defined in this chapter or allowing days to accumulate over and above those provided for in section 18A:30-2, except that no person shall be allowed to increase his total accumulation by more than 15 days in any one year."

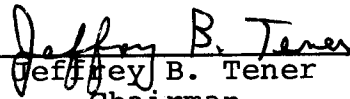
However, the contract refers to the one hundred and eighty days (180) as extended sick leave, it provides that this benefit only applies when a teacher's accumulated sick leave days have been exhausted, and it limits the accumulation of sick leave days to a maximum of ten (10) days per year. In other words, extended sick leave only comes into play after all accumulated sick leave has been used and sick leave is accumulated at a rate limited by the difference between the number of sick days taken and ten (10), subject to a maximum of ten (10) days per year. Therefore, we conclude that the one hundred and eighty (180) days of extended sick leave is exactly that; extended sick leave, which is indeed subject to the provisions of N.J.S.A. 18A:30-6 which prohibits the granting of extended sick leave automatically without the exercise of discretion in each individual case.

We do recognize that, consistent with N.J.S.A. 18A:30-2, the parties can negotiate for more than ten (10) days of sick leave per year. For the reasons set forth above, we do not believe that the instant dispute concerns that situation.

ORDER

The disputed provision constitutes a benefit which the Teaneck Board of Education does not have authority under the laws of this State to grant. It is, therefore, hereby declared to be an illegal subject for collective negotiations and the disputed provision of the parties' agreement is null, void and unenforceable.

BY ORDER OF THE COMMISSION

  
\_\_\_\_\_  
Jeffrey B. Tener  
Chairman

Chairman Tener, Commissioners Hartnett and Parcels voted for this decision. Commissioner Forst voted against this decision. Commissioners Hipp and Hurwitz abstained.

DATED: Trenton, New Jersey  
October 18, 1977  
ISSUED: October 20, 1977