

P.E.R.C. NO. 2003-29

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

GLEN RIDGE SCHOOL PERSONNEL
ASSOCIATION AND NEW JERSEY
EDUCATION ASSOCIATION,

Respondents,

-and-

Docket No. CI-H-96-32

KENNETH T. TUCKER, JR.,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses a motion for reconsideration filed by Kenneth T. Tucker, Jr. of P.E.R.C. No. 2002-72. In that decision, the Commission ordered the Glen Ridge School Personnel Association and the New Jersey Education Association to comply with their duty of fair representation under N.J.S.A. 34:13A-5.3 by reimbursing Kenneth T. Tucker, Jr. at reasonable and customary rates for the attorney of his choice to represent him in his grievance arbitration proceeding. In his motion, Tucker argues that the Commission should also have issued relief on a civil rights claim. The Commission dismisses the motion, which was filed more than a month late and after the time to appeal had run, as untimely.

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 Respondents, Wills, O'Neill & Mellk, attorneys
(Arnold M. Mellk, of counsel)

For the Charging Party, Kenneth T. Tucker, Jr., pro se

DECISION

On August 2, 2002, Kenneth T. Tucker, Jr. moved for reconsideration of P.E.R.C. No. 2002-72, 28 NJPER 251 (¶33095 2002). In that May 31, 2002 decision, we ordered the Glen Ridge School Personnel Association and the New Jersey Education Association to comply with their duty of fair representation under N.J.S.A. 34:13A-5.3 by reimbursing Kenneth T. Tucker, Jr. at reasonable and customary rates for the attorney of his choice to represent him in his grievance arbitration proceeding. In his motion, Tucker argues that we should also have issued relief on a civil rights claim.

After clearing up some confusion about the nature of Tucker's submission, we gave the respondents until September 18,

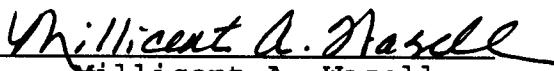
2002 to file a response. They did so on September 13. They argue that the motion for reconsideration is untimely and should not be considered. Tucker objects to our consideration of the response.

N.J.A.C. 19:14-8.4 requires that a motion for reconsideration be filed within 15 days of service of the Commission decision. A motion had to be filed by June 18, 2002. This motion was filed more than a month late and after the time to appeal had run. It cannot be considered. Cf. Wausau Ins. Co. v. Prudential Property and Casualty Ins. Co., 312 N.J. Super. 516 (App. Div. 1998) (motion for reconsideration cannot be used as a substitute for a timely appeal); In re Hill, 241 N.J. Super. 367 (App. Div. 1990) (when time for taking appeal has run, parties to judgment have vested right which cannot be taken from them).

ORDER

The motion for reconsideration is dismissed as untimely.

BY ORDER OF THE COMMISSION


Millicent A. Wasell
Chair

Chair Wasell, Commissioners Buchanan, Katz, Mastriani, McGlynn, Ricci and Sandman voted in favor of this decision. None opposed.

DATED: October 31, 2002
Trenton, New Jersey
ISSUED: November 1, 2002