

P.E.R.C. NO. 82-45

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

P.B.A. LOCAL NO. 73,
UNION COUNTY POLICE,

Petitioner,

-and-

Docket No. ID-81-13

COUNTY OF UNION,

Respondent.

COUNTY OF UNION,

Petitioner,

-and-

Docket No. ID-81-9

P.B.A. LOCAL NO. 73,
UNION COUNTY POLICE,

Respondent.

SYNOPSIS

The Chairman of the Commission, ruling upon Petitions for Issue Definition Determinations, finds that a proposal to change from a five days on two days off work schedule to a four days on and two days off schedule is an economic issue for purposes of interest arbitration.

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Appearances:

For the County of Union, Weinberg and Manoff, P.A.
(Richard J. Kaplow, of Counsel)

For P.B.A. Local No. 73, Osterweil, Wind & Loccke, Esqs.
(Manuel A. Correia, of Counsel)

DECISION

Petitions for Issue Definition Determinations were filed by the County of Union and P.B.A. Local No. 73 with the Public Employment Relations Commission on March 27, 1981 and June 10, 1981 respectively, which alleged that a dispute existed as to whether certain issues which were the subject of collective negotiations between the parties were economic or non-economic as defined in N.J.S.A. 34:13A-16(f)(2). At the time the first petition was filed, a Petition to Initiate Compulsory Interest

Arbitration, in accordance with Public Laws of 1977, Chapter 85, was on file with the Commission.

In its Rules adopted to implement the Police and Fire Arbitration Act (Chapter 85), the Commission established a procedure to resolve disputes as to whether issues are non-economic or economic. That procedure is set forth fully at N.J.A.C. 19:16-6.1 et seq. The Rules provide that the Chairman or other designee of the Commission shall render a written determination which classifies the disputed issue or issues as economic or non-economic within the meaning of N.J.S.A. 34:13A-16(f)(2). These determinations are deemed to be final administrative determinations not subject to review in any proceeding before the Commission.

Although the Petitions filed by the parties identified several issues in dispute, the parties were informed by letter dated July 22, 1981, that the Commission could not make a determination as to whether the issues were economic or non-economic unless the parties submitted for Commission consideration, the wording of the contract proposals, or contract articles, which were in dispute. To date, the parties' submissions have done little more than make reference to the issues in dispute, and therefore the undersigned is not able to render a determination as to the disputed matters except as to the issue of work schedule.

The County contends that a demand by the PBA for officers to work a four days on and two days off schedule, instead of a five and two schedule as currently exists, is an economic issue.

The PBA had listed the matter as a non-economic issue in its submission to interest arbitration. The County contends that over the course of a year, an officer working a four and two schedule will work 16 days less than an officer working a five and two schedule. Thus, it is argued that the PBA's demand is economic since it would result in an additional 16 days off for the same annual salary, and thus may be considered additional paid vacation. The PBA maintains that the demand is non-economic, arguing that work schedule does not have a direct relation to employee income. Alternatively, the PBA argues that even if the change to a four and two work schedule would result in employees working less time for the same amount of salary, under its proposal such a benefit is de minimis. The PBA, however, does not point out in detail what the total work hours under the two proposals would be.

As the County points out in its Petition, N.J.S.A.

34:13A-16(f)(2) provides:

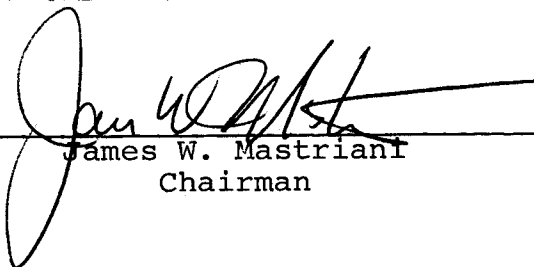
Economic issues include those items which have a direct relation to employee income including wages, salaries, hours in relation to earnings, and other forms of compensation such as paid vacations, paid holidays, health and medical insurance and other economic benefits to employees.

The undersigned finds that a change from a five and two work schedule to a four and two work schedule does have a direct relation to employee income, since in virtually all instances it would change the amount of hours an employee works in relation to

the salary the employee receives. Accordingly, the undersigned finds that the PBA proposals on the four and two schedule should be part of its overall economic package. If it is true, as the PBA contends, that the overall work hours of employees under the four and two schedule is not significantly different than under the existing schedule, the arbitrator will be free to consider that factor and treat it accordingly in his award.

The remaining matters listed in both petitions are hereby dismissed without prejudice.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

DATED: October 15, 1981
Trenton, New Jersey