

P.E.R.C. NO. 96-27

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY
(DEPARTMENT OF ENVIRONMENTAL PROTECTION),

Respondent,

-and-

Docket No. CO-95-428

INTERNATIONAL FEDERATION OF PROFESSIONAL
AND TECHNICAL ENGINEERS, LOCAL 195, AFL-CIO,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission sustains a decision of the Director of Unfair Practices refusing to issue a Complaint based on an unfair practice charge filed by the International Federation of Professional and Technical Engineers, Local 195, AFL-CIO against the State of New Jersey (Department of Environmental Protection). D.U.P. No. 96-2, 21 NJPER 298 (¶26189 1995). This case is controlled by State of New Jersey (DEP), P.E.R.C. No. 95-115, 21 NJPER 267 (¶26172 1995), app. pending App. Div. Dkt. No. A-5444-94T5, where the Commission held that in light of Merit System Board regulations and the Department of Personnel's approval of the DEP's layoff plan, a reduction in force at DEP was outside the scope of negotiations.

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 Respondent, Deborah T. Poritz, Attorney General
(Mary L. Cupo-Cruz, Senior Deputy Attorney General)

For the Charging Party, Balk, Oxfeld, Mandell & Cohen,
attorneys (Arnold S. Cohen, of counsel)

DECISION AND ORDER

On June 19, 1995, the International Federation of Professional and Technical Engineers, Local 195, AFL-CIO filed an unfair practice charge against the State of New Jersey (Department of Environmental Protection). The charge alleges that the employer violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically subsections 5.4(a)(1) and (5),^{1/} by refusing to

^{1/} These subsections prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act. (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...."

negotiate over an announced reduction in the workweek and compensation for Department of Environmental Protection ("DEP") employees.

On July 11, 1995, the Director of Unfair Practices refused to issue a Complaint and dismissed the charge. D.U.P. No. 96-2, 21 NJPER 298 (¶26189 1995). He found that for the reasons stated in State of New Jersey (DEP) and CWA, P.E.R.C. No. 95-115, 21 NJPER 267 (¶26172 1995), app. pending App. Div. Dkt. No. A-5444-94T5, the reduction in the workweek of DEP employees is not mandatorily negotiable.

On July 24, 1995, Local 195 appealed. It claims that DEP's actions unilaterally changed a mandatorily negotiable term and condition of employment.

On August 16, 1995, the employer responded. It claims that Local 195 waived any right to negotiate (assuming such a right existed) by not demanding negotiations following notice of the contemplated action and that DEP's action is not mandatorily negotiable. It submitted supporting certifications.

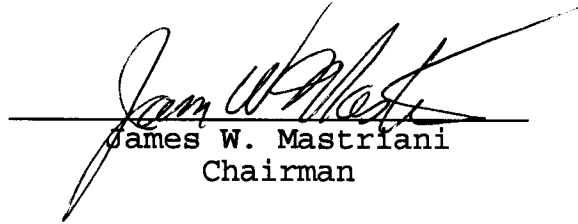
On August 29, 1995, Local 195 submitted a certification in response to the employer's submission.

In P.E.R.C No. 95-115, we held that in light of Merit System Board regulations and the Department of Personnel's approval of the DEP's layoff plan, the reduction in force at DEP was outside the scope of negotiations. That decision controls. Accordingly, we sustain the Director's decision not to issue a Complaint.

ORDER

The refusal to issue a Complaint is sustained.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Boose, Finn, Klagholz, Ricci and Wenzler voted in favor of this decision. None opposed. Commissioner Buchanan abstained from consideration.

DATED: October 31, 1995
Trenton, New Jersey
ISSUED: November 1, 1995