

P.E.R.C. NO. 2003-61

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF BELMAR,

Petitioner,

-and-

Docket No. SN-2003-2

BELMAR POLICEMEN'S BENEVOLENT
ASSOCIATION, LOCAL NO. 56,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies Belmar Policemen's Benevolent Association, Local No. 56's motion for reconsideration of P.E.R.C. No. 2003-52. In that decision, the Commission held that the PBA could not arbitrate a challenge to the police chief's decisions to assign an on-duty officer around one construction site and not to require the presence of an off-duty officer around another. The Commission finds no extraordinary circumstances warranting reconsideration.

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 Petitioner, Apruzzese, McDermott, Maestro & Murphy, P.C., attorneys (Arthur R. Thibault, Jr., on the brief)

For the Respondent, Loccke & Correia, P.A., attorneys (Charles E. Schlager, Jr., on the brief)

DECISION

On February 21, 2003, the Belmar Policemen's Benevolent Association, Local No. 56 moved for reconsideration of P.E.R.C. No. 2003-52, 29 NJPER 30 (¶10 2003). In that decision, we held that the PBA could not arbitrate a challenge to the police chief's decisions to assign an on-duty officer around one construction site and not to require the presence of an off-duty officer around another.

The PBA argues that overtime payments were not involved in this dispute and that the grievances were to secure outside employment as set forth in the Borough's ordinances. In addition, the PBA maintains that the grievances are not an

impediment to the chief's discretion to assign on-duty officers. The PBA asserts that "off-duty" jobs do not implicate the government's policymaking powers and that the Borough has already exercised its policymaking power by adopting ordinances establishing the requirements for outside contractors working in the Borough.

On February 26, 2003, the Borough filed a response. It argues that there is no demonstration of extraordinary circumstances warranting reconsideration and that the PBA simply does not agree with our decision's analysis and determination.

Reconsideration will be granted only in extraordinary circumstances. N.J.A.C. 19:13-3.11; 19:14-8.4. No such circumstances are present here.

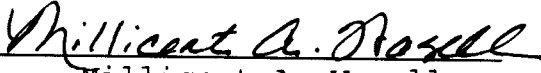
We did not characterize this case as one having to do with overtime. Whether the off-duty officers are paid overtime rates or some lower rate is not the issue. The question before us was whether the PBA could enforce through binding arbitration its claim that a Borough ordinance required the assignment of off-duty police officers in two circumstances. We held that the employer had a non-negotiable right to assign an on-duty officer in one situation and to not require a private contractor to use an off-duty officer in the other. The grievances therefore could not be submitted to binding arbitration. We did not address whether the alleged requirements of the ordinances were

enforceable in some other forum. That is not for us to decide. We simply held that restrictions on the employer's managerial prerogatives could not be challenged in binding arbitration. There are no extraordinary circumstances that warrant reconsidering that determination.

ORDER

Reconsideration is denied.

BY ORDER OF THE COMMISSION


Millicent A. Wasell
Chair

Chair Wasell, Commissioners Buchanan, DiNardo, Mastriani and Ricci voted in favor of this decision. None opposed. Commissioners Katz and Sandman were not present.

DATED: March 27, 2003
Trenton, New Jersey
ISSUED: March 28, 2003